Freedom *of* Information *and* Protection *of* Privacy Act

HANDBOOK

Health Care Bodies

Manitoba

FOREWORD

As of April 3, 2000, *The Freedom of Information and Protection of Privacy Act* (FIPPA) is extended to municipalities, conservation and planning districts, northern affairs community councils, school divisions and districts, community colleges, universities, regional health authorities, and other health bodies. This *Handbook* is designed to assist local public bodies understand and administer FIPPA.

The *Handbook* consists of the following sections:

- **Guide to FIPPA** summarizes the legislation and outlines procedures for responding to access requests, protecting personal information, and dealing with the Ombudsman.
- **Forms, Letters & Notices** includes the three prescribed forms and the annual report form. Sample letters and notices are provided to assist local public bodies to correspond with applicants and others.
- **FIPPA** is a copy of the Act and the *Access and Privacy Regulation*.
- **Directories of Records** provide descriptions of the mandates and functions of the local public bodies, as well as general identification of their records. Personal information banks are identified in some detail, to enable members of the public to determine the personal information collected by that type of local public body. Transparency in the management of personal information is an important component of FIPPA.
- **Addresses** provide the address of each local public body, to which questions or applications for access should be directed.

This *Handbook* is available in Manitoba public libraries and on the Manitoba Government website.

For additional assistance, contact:

Access and Privacy Services
Provincial Archives of Manitoba
3 - 200 Vaughan Street
Winnipeg MB R3C 1T5

Phone: 945-3738
Toll Free: 1-800-617-3588 (Manitoba)
Fax: 1-204-948-2008
E-mail: govrecs@gov.mb.ca

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Freedom *of* Information *and* Protection *of* Privacy Act

GUIDE TO MANITOBA'S

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

FOR LOCAL PUBLIC BODIES

Manitoba

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INTRODUCTION

The Freedom of Information and Protection of Privacy Act of Manitoba, commonly known as FIPPA, was passed in June 1997. It was proclaimed in effect for Manitoba government departments and agencies on 4 May 1998 and for the City of Winnipeg on 31 August 1998. FIPPA was extended to local governments, school divisions, universities, community colleges, regional health authorities and hospitals on 3 April 2000.

This *Guide* is intended to help local public bodies understand FIPPA and their responsibilities under this new legislation. It is a combined procedures manual and overview of the statute and regulation. The FIPPA *Resource Manual*, a very detailed internal manual for Manitoba government departments and agencies, may be of assistance to larger local public bodies. In complex matters, local public bodies should refer to FIPPA and the *Access and Privacy Regulation*. For reference, the relevant section numbers are noted at the beginning of each component of the *Guide*.

For more information, visit the FIPPA web site at <www.gov.mb.ca/fippa> or contact:

Access and Privacy Services
Provincial Archives of Manitoba
3 - 200 Vaughan Street, Winnipeg MB R3C 1T5
Telephone: 1-204-945-3738 Toll Free: 1-800-617-3588 (Man.)
Fax: 1-204-948-2008; E-mail: govrecs@gov.mb.ca

NOTES ON USING THIS GUIDE

In most respects, FIPPA imposes the same obligations and standards on all public bodies. There are, however, some requirements specific to local public bodies or to Manitoba government departments and agencies. This *Guide* uses the term "public body", except when discussing a section of the Act which pertains only to local or provincial public bodies. The term "local public body" is also used for when discussing procedures to be followed by local public bodies.

Where the term "head" of the public body' is used in this *Guide*, it should be understood to include the Access and Privacy Officer who has been officially delegated to act for the head.

FUNDAMENTAL PRINCIPLES

Access and privacy legislation is based on two fundamental human rights increasingly recognized in contemporary democracies:

- the right to access information held by governments and other public bodies, including information about oneself, subject to certain specific exceptions; and
- the right of privacy for one's own personal information held by public bodies.

To ensure that the legislation is applied fairly, access and privacy legislation usually includes a process for independent review.

The right of access to information is based on the principle that governments and other public institutions are accountable to citizens for their policies and actions. Another premise underlying this type of legislation is the desirability of having better informed members of society. The exceptions to access recognize that certain types of decision making and transactions must be conducted in confidence. The practice of severance, which involves removing information that falls within an exception from a copy of the document to be released, provides a means of disclosing as much information as possible while maintaining necessary confidentiality.

The right to privacy for personal information is based on the principle that people have the right to know about and control their own personal information and on principles of "fair information practices" governing the collection, correction, management, use and disclosure of personal information. Protection of privacy is a growing concern among

Canadians and people in other countries, because so much personal information is now stored in electronic systems and is easily manipulated, matched and traded.

EMERGENCE OF ACCESS AND PRIVACY LEGISLATION

Access and privacy legislation has developed in industrialized nations during the last 30 years as a result of the maturing of democratic governments, growing recognition of individual rights and, most recently, rapid development of telecommunications and information technology.

In Canada, the federal government adopted the *Privacy Act* and the *Access to Information Act* in 1982. Together, these two statutes provided personal information protection and rights of access to government information in the federal sphere. By the mid-1990s, most Canadian provinces had enacted combined access and privacy statutes.

Manitoba's *Freedom of Information Act*, proclaimed in 1988, provided rights of access to provincial government information, subject to certain exemptions, with the Office of the Provincial Ombudsman and the Court of Queen's Bench serving as the review and final decision-making mechanisms. It provided limited protection for personal information by treating third party personal information as an exception to access. However, it lacked a full scheme of protection for all personal information collected, stored, used and disclosed by the government. Moreover, the access and privacy rights in that Act were limited to records held by the Manitoba Government and Crown agencies and did not apply to other public bodies in the province.

FIPPA was drafted after public consultation and review of similar legislation in other jurisdictions. During the consultation process, the Minister of Culture, Heritage and Citizenship stated that FIPPA ensures "a common approach and standard for the province, local governments and other public bodies so that Manitobans receive consistent protection and services."

PURPOSES AND STRUCTURE OF FIPPA

[SECTION 2]

The purposes of the *Act* are:

- to give any person a right of access to records in the custody or under the control of public bodies, subject to the exceptions set out in the *Act*;
- to give individuals a right of access to records containing personal information about themselves in the custody or under the control of public bodies, subject to the exceptions set out in the *Act*;
- to give individuals a right to request corrections to records containing personal information about themselves held by public bodies;
- to control the manner in which public bodies collect personal information from individuals and to protect individuals against unauthorized use or disclosure of personal information by public bodies; and
- to provide for an independent review of the decisions of public bodies under FIPPA.

FIPPA is structured in seven parts:

- Part 1 Definitions, Purpose, and Scope
- Part 2 Access to Information
- Part 3 Protection of Privacy
- Part 4 General Powers and Duties of the Ombudsman
- Part 5 Investigation of Complaints by the Ombudsman and Appeals to Court
- Part 6 General Provisions
- Part 7 Review of FIPPA, etc.

PUBLIC BODIES UNDER FIPPA

[SECTION 1]

FIPPA applies to Manitoba Government departments, all boards, commissions and agencies whose governing boards are wholly appointed by statute or by the Manitoba Government, and other agencies designated in the Regulation, such as the mandated Child and Family Service Agencies. Each department or agency is a separate public body.

FIPPA also applies to local public bodies which include local government bodies, education bodies and health care bodies.

Local government bodies are:

- the City of Winnipeg;
- municipalities and local governments;
- planning districts and conservation districts;
- community councils under *The Northern Affairs Act.*

Educational bodies are*:*

- public school divisions and districts;
- community colleges;
- the University of Manitoba, University of Winnipeg and Brandon University.

Health care bodies are:

- regional health authorities;
- hospitals designated under *The Health Services Insurance Act*; and
- boards of health and social services districts established under *The District Health and Social Services Act.*

The Manitoba Government may bring other bodies under FIPPA by regulation.

KEY DEFINITIONS IN FIPPA
[SECTION 1]

Section 1 of FIPPA includes a number of important definitions. Some of the more significant definitions are outlined in this section of the *Guide*. Others are discussed in specific sections; for example, the definition "record" is discussed under "Records That Fall Under FIPPA".

■ Personal Information

In FIPPA, personal information is defined as "recorded information about an identifiable individual ...." To be personal information, the information must be:

(i) "recorded" – personal information is limited to information which is recorded or retrievable in some physical form. It does not include oral comments which have not been recorded.

(ii) about an "individual" – an "individual" is a natural person, a human being. Information about a corporation, business, group or organization is not personal information.

(iii) about an "identifiable" individual – if an individual is named in a record or it is possible to determine his or her identity from the contents of the record, the record is about an "identifiable" individual.

The definition of "personal information" in FIPPA lists examples of personal information, but the list is not exhaustive. The examples given include an individual's name, home address and home telephone, facsimile or e-mail number, information about an individual's age, sex, sexual orientation, marital status, family status, ancestry, race, colour, nationality, national origin, ethnic origin, religion or creed, religious belief, religious association or activity, personal health information, blood type, fingerprints, hereditary characteristics, political beliefs, political association or activity, education, employment, educational history, employment history, source of income, financial circumstances, financial activities or history, criminal history and identifying numbers, symbols or other particulars assigned to an individual.

Personal information also includes an individual's opinions (except if the opinions are about someone else) and any opinions expressed about the individual by someone else.

■ Personal Health Information

Personal health information is defined as recorded information about an identifiable individual relating to that person's health or health care history, the provision of health care to the individual, or payment for health care provided to the individual. It includes an individual's Personal Health Information Number (PHIN) and any identifying information about the individual that is collected in the course of, and is incidental to, providing health care or payment for health care.

All public bodies, which fall under FIPPA, are also covered by PHIA. In addition, PHIA applies to some private health care professionals, facilities and agencies.

An individual requesting access to his or her own personal health information must do so under *The Personal Health Information Act* (PHIA), not under FIPPA. PHIA allows for disclosure of personal information to other parties with the consent of the person that the personal health information is about, to other individuals authorized to act on behalf of the person, and to a limited number of other parties without the consent of the person. If disclosure is not allowed under PHIA, a request for access to personal health information should be dealt with under Part 2 of FIPPA. Access will usually be refused because disclosure of personal health information about someone else is deemed to be an unreasonable invasion of privacy.

PHIA also sets out rules respecting collection, protection, use and disclosure of personal health information by trustees, including public bodies. The protection of privacy section of FIPPA does not apply to personal health information. For more information about PHIA, see "*The Personal Health Information Act*: A Brief Summary for Public Bodies" published by Manitoba Health. The statute is available on the Internet at www.gov.mb.ca/chc/statpub/ or may be purchased from Statutory Publications, 200 Vaughan St., Winnipeg MB R3C 1T5 Telephone 1-204-945-3101, Fax: 1-204-945-7172.

Third Party

For the purposes of a request for access under FIPPA, a "third party" is a person, group or organization, who is not the applicant requesting access or a public body.

Public bodies hold large quantities of information about individuals, groups, corporations and non-profit organizations which, if disclosed to others, might result in harm to them. Sections 33 and 34 of FIPPA contain third party notice and intervention provisions to protect the personal information or business interests of third parties.

The phrase "third party" is particularly important in the following provisions:

• Subsection 12(2)	Refusal to confirm or deny existence of record
• Clauses 15(1)(c) and (d)	Extending the time limit for responding
• Section 17	Privacy of a third party
• Section 18	Business interests of a third party
• Subsection 27(2)	Third party's solicitor-client privilege
• Sections 33 and 34	Third party intervention
• Subsection 59(2)	Complaint to Ombudsman by third party about access
• Subsection 67(1)	Appeal to court by third party about access.

Law Enforcement

"Law enforcement" is defined in FIPPA to mean "any action for the purpose of enforcing an enactment.... " The term "enactment" means an Act or regulation and an "Act" is a statute passed by the Legislative Assembly of a province or by the Parliament of Canada.

Thus, law enforcement means activities undertaken by a public body to enforce compliance with standards, duties and responsibilities set out in a statute or regulation. The definition lists examples of law enforcement, but this is not meant to be a complete list. The examples given are:

- policing;
- investigations or inspections that lead or could lead to a penalty or sanction being imposed, or that are otherwise conducted for the purpose of enforcing an enactment; and
- proceedings that lead or could lead to a penalty or sanction being imposed, or that are otherwise conducted for the purpose of enforcing an enactment.

For example, a prosecution under the *Criminal Code* (Canada), a hearing before the Clean Environment Commission or a hearing before a Human Rights Arbitrator are all law enforcement proceedings.

RECORDS THAT FALL UNDER FIPPA
[SECTION 4; Definition of "record" in SECTION 1]

In FIPPA, a record is defined very broadly to mean information recorded "in *any* form". In addition to written and printed records, it includes photographs, maps, plans and audio/visual recordings. Information stored and retrieved electronically is also a record under FIPPA.

Examples of records are minutes and agenda, letters, memoranda, reports, notes, and financial transaction records. Copies of documents, drafts and other working materials are also records under FIPPA.

FIPPA applies to all records "in the custody or under the control of" a public body, except for certain specified records described in the next section. In most cases, "custody" for the purposes of FIPPA means having physical possession of a record. The term "control" usually means the power or authority to make decisions respecting the use or disclosure of a record. Records stored in an off-site facility by the public body, or transferred to an archives for permanent preservation, are still under the control of the public body.

FIPPA applies to information received by the public body from other governments, organizations or individuals, as well as to records generated by the staff and officials of the public body in the course of their duties.

FIPPA applies to records created or received before FIPPA came into effect, as well as to records created or received after it came into effect.

RECORDS THAT DO NOT FALL UNDER FIPPA
[CLAUSES 4(a) to 4(k); STATUTES WHICH PROVIDE FIPPA DOES NOT APPLY]

FIPPA does not apply to the following records, even if these records are in the custody or under the control of a public body:

- constituency records of elected officials of local public bodies;
- teaching materials or research information of employees of school divisions or districts, community colleges, or universities;
- a question that is to be used on an examination or test, now or in the future;
- information in court records, records of a judge or magistrate, and judicial administration records;

- a note or draft decision of a person acting in a judicial or quasi-judicial capacity; or
- records relating to a prosecution or an inquest under *The Fatalities Inquiry Act* if all proceedings have not been completed.

In addition, FIPPA does not apply to certain records related to the provincial legislature or government, such as records of a Member of the Legislative Assembly, personal or constituency records of a Minister, records of an Officer of the Legislative Assembly, and records of a credit union held by the Credit Union Deposit Guarantee Corporation.

Also excluded are records specifically dealt with under the following statutes: *The Adoption Act, The Child and Family Services Act, The Mental Health Act, The Personal Health Information Act, The Statistics Act, The Vital Statistics Act, The Workers Compensation Act,* and the *Young Offenders Act* (Canada).

RECORDS NORMALLY AVAILABLE TO THE PUBLIC [CLAUSE 3(a)]

Public bodies have always provided public access to certain information and records in their custody. These traditional procedures may continue as long as they do not violate protection of personal information. For example, minutes of most municipal council and school board meetings should continue to be available.

FIPPA does not affect any fees that may be charged for access to these records which are normally available to the public.

OTHER PROCEDURES NOT AFFECTED BY FIPPA [CLAUSES 3(b), (c) and (d)]

The transfer, storage and destruction of records by a public body are not affected by FIPPA, provided that these actions are undertaken in accordance with a statute or regulation of Manitoba or Canada, or a by-law or resolution of a government agency or a local public body.

FIPPA does not limit the information otherwise available by law to a party to legal proceedings. Nor does it affect the power of a court or tribunal to compel the production of documents or to require a witness to testify.

RELATIONSHIP OF FIPPA TO OTHER MANITOBA LEGISLATION [SECTION 5]

Commencing May 4, 2001, if any provision in FIPPA is inconsistent or in conflict with a provision of another Manitoba statute or regulation, the provision in FIPPA will prevail unless the other statute or regulation expressly provides that it applies despite FIPPA.

The following statutes "expressly provide" that they prevail over FIPPA:
- *The Personal Health Information Act*
- *The Adoption Act* (section 99)
- *The Child and Family Services Act* (section 86.1)
- *The Mental Health Act*
- *The Securities Act* (section 154.1)
- *The Statistics Act* (subsection 9(4))
- *The Vital Statistics Act* (section 49.1)
- *The Workers Compensation Act* (section 116).

In addition, there are some federal statutes which affect records keeping by public bodies, access to information and personal information protection. Among the most important is the *Young Offenders Act* which governs the retention and disclosure of records relating to young offenders held by the courts, police, government departments, social agencies, school divisions and other public bodies that deal with young offenders. FIPPA does not apply to these records.

There are several statutes applicable to local public bodies, which provide that the local public body must give access to certain documents. For example, section 81.3 of *The City of Winnipeg Act* states that the City Clerk, on the request of any person, must produce and permit the examination of certain specified records (such as the approved minutes of an open council meeting or an open committee meeting, the latest tax roll, etc.).

Local public bodies should review any legislation which applies to them, to determine whether it requires them to provide access to information. FIPPA authorizes the head of a public body to disclose personal information in accordance with an enactment of Manitoba or Canada that authorizes or requires the disclosure.

MANITOBA GOVERNMENT RESPONSIBILITIES

The Minister Responsible for FIPPA is the Minister of Culture, Heritage and Tourism. This minister oversees the central administration of FIPPA and is responsible for the overall performance of public bodies in responding to requests for access and protecting personal information. The Responsible Minister is required to submit an annual report to the Legislative Assembly.

Access and Privacy Services of the Provincial Archives of Manitoba undertakes the central administration and coordination of FIPPA. It organizes training courses for staff of public bodies, provides procedural advice, distributes resource materials, compiles and distributes the directories of records, maintains the FIPPA web site, and handles other matters required for effective administration of the legislation.

DIRECTORIES OF RECORDS
[SECTION 75]

Under FIPPA, directories of records are compiled to inform the public about the mandates, functions and records of all public bodies, including major holdings of personal information (called personal information banks). Identification of the purpose for collecting the personal information in these banks, the types of personal information included, and any other uses or disclosures of this information, helps people to understand how public bodies are managing the personal information entrusted to them.

In most cases, the directories of records are compiled and edited by the Access and Privacy Services. The City of Winnipeg and the universities prepare their own directories.

The directory for the Manitoba government is called the *Access and Privacy Directory.*

ADMINISTRATION OF FIPPA BY LOCAL PUBLIC BODIES [SECTIONS 80 and 81, REGULATION, SECTION 2]

Responsibility for Complying with FIPPA – Head or Access and Privacy Officer

Each local public body must designate, either by by-law or by resolution, a person or group of persons as its head for the purposes of FIPPA. The head is formally responsible for all decisions and actions taken under FIPPA on behalf of the local public body. For accountability purposes, it is recommended that the head be the elected head of the local public body or, where there are no elected officials, the senior appointed official. For example, it is suggested that municipalities designate their mayor or reeve as head and that school divisions and regional health authorities designate their respective chairperson.

In most public bodies, the head probably will want to delegate his or her responsibilities to a senior staff member called the Access and Privacy Officer. The delegation should be to a position, not to a specific individual, and should be in writing. The Access and Privacy Officer acts for the head in all matters under FIPPA.

When this *Guide* refers to the head of the public body, it should be understood to include either the head or the Access and Privacy Officer.

The head of the local public body is responsible for the overall management of access to information and protection of privacy within the organization. This individual will make the final decisions on behalf of the local public body regarding release of information under FIPPA. The head also is responsible for ensuring that the local public body manages personal information in accordance with FIPPA. Should the Ombudsman have to conduct an investigation in response to a complaint, that Office usually will deal with the head of the local public body or the Access and Privacy Officer.

Daily Administration and Coordination – Access and Privacy Coordinator

Each local public body is required, by section 2 of the *Access and Privacy Regulation*, to appoint an employee as its Access and Privacy Coordinator. This official will be responsible for receiving applications for access and for the daily administration of FIPPA. In very small local public bodies, the Access and Privacy Officer also may serve as the Coordinator.

The main duties of the Coordinator are as follows:

- assist applicants requesting access to records, and potential applicants, by explaining FIPPA, helping them to draw up requests, directing them to other sources of information, etc.;
- receive applications for access, locate the records requested or, in larger public bodies, coordinate this work;
- receive requests for correction of personal information and forward them to the appropriate area;
- ensure time limits and notification requirements are met;
- contact third parties to determine their position respecting a request for access;
- prepare any necessary copies of requested records;
- estimate and collect any applicable fees;
- recommend how to respond to requests for access to the head of the local public body;
- maintain documentation on how applications are handled by the local public body, including what information was not disclosed to applicants and the exceptions used;
- ensure that staff understand the requirements of FIPPA respecting collection, use, protection and disclosure of personal information; and
- assist the head of the local public body during investigations by the Ombudsman.

The Access and Privacy Coordinator also may be responsible for ensuring that the records of the local public body are managed efficiently and in accordance with legislative requirements and policies. Efficient records management will help local public bodies to locate information requested under FIPPA.

■ Lists of Uses and Disclosures of Personal Information [Section 75(4)]

Each local public body is required to maintain an up-to-date list of the uses and disclosures made of information in the personal information banks and to make this list available to the public. See the sections in this Guide on Use of Personal Information and Disclosure of Personal Information under Protection of Privacy.

■ Annual Statistics [Section 83]

To compile the Annual Report of the Minister Responsible for FIPPA, Access and Privacy Services requires annual statistics on the use of FIPPA from each local public body. The completed Annual Report should be sent to Access and Privacy Services by January 31 of the new year.

The Annual Report Form is included in the Forms, Letters and Notices section of the *Handbook*.

■ Protection from Liability [Section 84]

No action may be brought against a public body or its officials for

- damages resulting from the disclosure or failure to disclose, in good faith, a record or information under FIPPA;
- any consequences of that disclosure or failure to disclose; or
- the failure to give a notice required by FIPPA if reasonable care is taken to give the required notice.

■ Offences and Penalties [Section 85]

It is an offence, subject to a maximum fine of $50,000 for any person to wilfully:

- disclose personal information in contravention of FIPPA;
- mislead or obstruct the Ombudsman; or
- destroy a record or erase information in an attempt to evade a request for access to records.

ACCESS TO INFORMATION

REQUESTS FOR ACCESS TO INFORMATION [SECTIONS 7 and 8]

Any person may request access to records in the custody or under the control of a public body falling under FIPPA, including a record containing information about the applicant, by completing the prescribed Application Form. The public body must respond to that application in writing and grant access to the requested records, or some of the records, unless:

- the records are excluded from FIPPA under clauses 4(a) to 4(k);
- the records are excluded from FIPPA by another Act or regulation; or
- the information in a record falls within one of the 4 mandatory exceptions to disclosure or one of the 12 discretionary exceptions to disclosure in section 17 to 32 of FIPPA.

The right of access is subject to the payment of fees required by the *Access and Privacy Regulation*.

DUTY TO ASSIST THE APPLICANT [SECTION 9]

FIPPA requires that all public bodies try to respond quickly, accurately and fully to an applicant's application for access and to assist the applicant to a reasonable extent. This duty is an important underlying provision of FIPPA. It is a duty throughout the application process, but is critical during initial contact with the applicant.

The Access and Privacy Coordinator should attempt to understand what records the applicant is requesting, and to ensure that he or she understands the application process. Often this will make the process easier and less time-consuming for both parties.

If an applicant feels that the public body has not fulfilled this duty to assist an applicant, he or she has the right to make a complaint to the Ombudsman.

THE APPLICATION FORM
[SECTION 8; REGULATION, SECTION 3]

To apply for access to a record under FIPPA, a person must use the prescribed Application for Access Form. A copy of this form is included in the Forms, Letters and Notices section of the *Handbook*. If a person makes a request in a letter, the Access and Privacy Coordinator should immediately provide him or her with an application form. A helpful option in this situation might be to staple the original letter to the application form, which the applicant could fill out as follows: "I request access to the information described in the attached letter."

Each local public body should have a supply of Application Forms, which are available in both French and English, at its main public service desks. The form is also available on the FIPPA web site at www.gov.mb.ca/fippa or may be ordered from:

Materials Distribution
Manitoba Government Services
1680 Church Ave Winnipeg MB R2X 2W9
Phone: 204-945-0570 Fax: 204-945-0293.

The Application Form may be photocopied as required.

An applicant may make an oral request if he or she has limited ability to read or write in English or French, or has a disability that make it difficult to make a written request. In these situations, a staff member of the public body should complete the application form as directed by the applicant, have the individual sign it if possible, date stamp it and sent it immediately to the Access and Privacy Coordinator.

An applicant must submit the application form to the public body that the applicant believes has custody or control of the record being requested. The applicant should also provide enough detail to enable an experienced employee of the public body to identify the record.

Local public bodies should make their directories of records available to applicants or suggest that they consult the FIPPA web site. The directories will assist applicants to understand the functions of the public body and what records it holds. They also should help applicants to direct their requests to the appropriate public body and to be more specific in their requests.

If an applicant has requested access to a record which includes personal health information about himself or herself, as well as other information, the personal health information in the record must be dealt with under *The Personal Health Information Act* (PHIA), not FIPPA. As

PHIA does not require that a request for access be in writing, the Coordinator may decide to treat the FIPPA application as an application under both Acts. This would also be in keeping with the requirement in FIPPA to help applicants. The time limit for responding to a request by an individual for his or her own personal health information is limited to 30 days (with no extension), and the only reasons for refusing an individual access to his or her own personal health information are set out in section 11 of PHIA.

PROCESSING THE REQUEST

The Application Form should be date stamped as soon as it is received by the public body (*Access and Privacy Regulation*, subsection 3(3)). The Access and Privacy Coordinator should review the request, on the same day if possible, to determine whether the application is understandable and complete, whether a formal FIPPA application is necessary, whether the application has been sent to the appropriate public body, and whether consultation with third parties or another public body may be required.

If the request is not clear or complete, the Coordinator should contact the applicant as soon as possible (by telephone, fax or e-mail, if practical, bearing in mind the need for confidentiality) to clarify the request.

If the requested information is available without having to apply under FIPPA, the Coordinator should notify the applicant immediately and advise him or her of the normal process for attaining the information. In many cases, the public body will simply provide the information, subject to any copying charge. In some instances, the applicant may be required to fill out a different application form or pay a fee. The Coordinator should ensure that the applicant understands what is required or who to contact for further information and should then confirm that the applicant wishes to withdraw the FIPPA application.

If the application should have been sent to another public body because:

- the record was produced by or for the other public body;
- the other public body was the first to obtain the record; or
- the record is in the custody or under the control of the other public body,

the Coordinator should transfer it as soon as possible (and no later than seven days after receipt) to the appropriate public body. The applicant must be advised of this transfer by letter as soon as possible by the Coordinator. Local public bodies requiring assistance with transfers may contact Access and Privacy Services at the contact numbers at the front of this *Guide*.

The Coordinator should insure that the public body begins identifying the records requested by the applicant as soon as possible after receiving the application. In many cases, this will simply mean going to a particular office or filing cabinet, or checking a computer file. In other instances, it may be necessary to obtain records from several areas, to bring records in from storage, or to examine documents transferred to the archives of the public body.

SEVERING [SUBSECTION 7 (2)]

When some – but not all – of the information in a record falls within an exception to disclosure, the head of the public body must grant the applicant access to as much of the record as can reasonably be provided without releasing the information which is excepted from disclosure. The information that is not being provided to the applicant is "severed" from the record and not disclosed to the applicant. The object of severing is to release as much information as possible without disclosing information protected by an exception.

In general, under FIPPA access to a record cannot be refused because of its title or form. The information in the record must be carefully examined, often on a line-by-line basis, to determine if any exceptions to disclosure apply.

It is critical that severing be done only on copies of records; the original record must not be altered. One method is to make a copy of the original record and to cover, on the copy, the information which is not to be released with removable tape. The applicable exception to disclosure provision in FIPPA (number of the section, subsection and clause) should be written on top of the tape or in the margin, so that the applicant will know why the information has not been released. When one or more entire pages have been severed, indicate the number of pages severed and the applicable exception or exceptions to disclosure. It will be necessary to photocopy the taped version of the document again, for the applicant to examine.

In most cases, the smallest unit of information to be disclosed after severing is a sentence. But even when only a sentence remains, some information (such as a name) may need to be removed so the remainder can be released.

> Note: Both the taped version of the record and a copy of the version provided to (or made available for viewing by) the applicant should be kept on file by the public body.

RESPONDING TO A REQUEST [SECTION 12]

If the public body has custody or control of the requested record and it falls within the scope of FIPPA, access may be granted in full, may be partly granted or may be refused, depending upon the applicability of the exceptions to disclosure. The head of the public body must notify the applicant in writing of the decision to grant or to refuse access to all or part of the record.

If access is to be given, the head of the public body must inform the applicant where, when and how access will be given.

If access is denied to all or part of a record, the response of the head must include the reasons for refusal and the specific provisions of FIPPA on which the refusal is based. Where refusal is based on an exception to disclosure, the number of the section, subsection and clause of the exception must be provided. The response must also provide the title and business telephone number of an officer or employee who can answer the applicant's questions about the refusal. Finally, the response must also tell the applicant that he or she has the right to file a complaint with the Ombudsman within 60 days.

In some cases, a requested record may never have existed, may have been destroyed under the records management system of the public body, or may have been lost. If a record has been lost, the public body should review its records management policies and procedures to ensure that this will not happen again. In the written response, the head must inform the applicant that access is refused as the record does not exist or cannot be located. He or she should explain briefly the steps taken to locate the record or provide the date of destruction if it was destroyed. The title and telephone number of an officer or employee who can answer the applicant's questions about the refusal should also be given. Again, the response must inform the applicant that he or she has the right to file a complaint with the Ombudsman within 60 days.

In some circumstances, the mere knowledge that a record exists will cause harm (for example, records respecting on-going police investigation). Where the head of the public body decides to refuse access, he or she may also refuse to confirm or deny the existence of a record that contains information which, if disclosed, might be harmful to individual or public safety, to law enforcement or to legal proceedings, or which contains personal information about a third party, if disclosing the existence of the record would be an unreasonable invasion of the third party's privacy.

■ Giving Access [Subsection 14 (1)]

An applicant may request to examine the original record or to receive a copy of the record.

If the record must be severed, and the applicant has asked to examine the record, the applicant can only examine a copy of the severed record. The applicant can not be charged a fee for the required photocopying if the applicant does not receive a copy of the record.

If the applicant has requested a copy of the record and the record can reasonably be reproduced, a copy must be provided. The applicable copying fee should be charged, unless the head of the public body decides to grant a fee waiver.

■ Access to Electronic Records [Subsection 10(1)]

As more and more information is maintained in electronic form, applicants will increasingly ask for access to electronic records. Electronic records are subject to FIPPA in the same way as paper records.

If the information requested is in electronic form in the custody or under the control of the public body, and if a record can be produced using the normal computer hardware, software and technical expertise of the public body, without interfering "unreasonably" with the operations of the public body, the public body must produce a record for the applicant. A fee can be charged for internal or external computer programming and data processing costs.

■ Creating a Record in the Form Requested [Subsection 10 (2)]

When an applicant requests information which is held by the public body, but not in the form requested, the head of the public body may create the record in the form requested, if he or she believes that doing so would be simpler or less costly for the public body than producing the records as they exist. For example, it may be more efficient for the public body to prepare a list of travel expense claims in response to an application, instead of letting the applicant go through all the invoices for the specified time period.

TIME LIMIT FOR RESPONDING AND EXTENDING THE TIME LIMIT [SECTIONS 11 and 15]

Public bodies must make every reasonable effort to respond to a request for access in writing within 30 days after receiving it, unless the time limit is extended or the request has been transferred to another public body. Note that the 30-day time limit is based on *calendar* days, not working days. The 30 days start to run on the day *after* the date that the application is received by any employee in any office of the public body.

There are four circumstances in which the public body may extend the time limit for up to an additional 30 days (or for a longer period if the Ombudsman agrees):

- if the applicant has not provided enough detail to enable the public body to identify the requested record;
- if the public body needs time to consult with a third party or another public body before deciding whether or not to grant access;
- if a large number of records is requested or the public body must search a large number of records, and responding within 30 days would interfere unreasonably with the operations of the public body; or
- if a third party makes a complaint to the Ombudsman about a decision to grant access.

If the public body extends the time limit, it must inform the applicant in writing, giving the reason for the extension and an indication when a response can be expected, and stating that the applicant has the right to complain to the Ombudsman about the extension.

If the public body does not respond within the 30-day period or any extended period, this failure is to be treated as a refusal of access. In this instance, the applicant may complain to the Ombudsman about both the delay in responding to the request and the deemed refusal of access.

EXCEPTIONS TO DISCLOSURE [SUBSECTION 7(2) and SECTIONS 17 to 32]

An applicant's right of access under Part 2 of FIPPA does not extend to information in a record which falls within an exception to disclosure in sections 17 to 32.

A refusal to disclose information in a record to an applicant must be based on one or more of the exceptions to disclosure. For example, it is not appropriate to refuse access simply because disclosure of the record might cause embarrassment to the public body – embarrassment is not an exception to disclosure under FIPPA.

There are two types of exceptions to disclosure in FIPPA:

- mandatory exceptions which require the head of a public body to refuse to disclose a record or part of a record (sections 17 to 20 and subsections 25(2) and 27(2); and
- discretionary exceptions which permit the head to refuse to disclose a record or part of a record (sections 21 to 32).

More than one exception to disclosure may apply to the same information.
In considering whether an exception applies, local public bodies should keep the following principles in mind:

- exception provisions should be strictly interpreted, as one of the purposes of FIPPA is to provide access to records, subject to the "limited and specific" exceptions set out in the *Act*;
- Manitoba courts have ruled, in the context of the former *Freedom of Information Act*, that to come within an exception, the information must fall squarely within the ambit of the exception provision; and
- generally, the public body bears the burden of proving that an exception is justified if there is a complaint to the Ombudsman or an appeal to court.

To confirm that an exception to disclosure applies, it is very important to read the relevant section of FIPPA in its entirety. Frequently, an exception is followed by specific limits, which have the effect of significantly reducing the scope of that exception.

Finally, where an exception to disclosure applies to some of the information in a record, only that portion is severed and withheld; the applicant is entitled to access the remainder of the record.

■ Mandatory Exceptions to Disclosure
[Sections 17 - 20, Subsections 25(2), 27(2)]

A mandatory exception to disclosure is clearly recognizable by the following phrase: "the head of a public body **shall refuse** to disclose information ...."

▪ Privacy of a Third Party [Section 17]

The head of a public body is required to refuse to disclose to an applicant personal information about another individual, if disclosure would be an unreasonable invasion of his or her privacy. This exception to disclosure protects third parties who are individuals, not corporations, businesses, organizations or other public bodies.

Subsection 17(2) lists types of personal information which are so sensitive that disclosure to someone else is "deemed" to be an unreasonable invasion of privacy (such as personal health information, information about a third party's employment or educational history, source of income, financial history, etc.).

For other types of personal information, the head of the public body must consider all relevant circumstances including whether disclosure might unfairly expose the third party to harm or if the personal information has been provided in confidence. It is recognized, however, that there are some situations where third party personal information should be accessible, such as if the third party consents, if there are compelling circumstances affecting the health or safety of the applicant or another person, or if the information concerns salary ranges or classifications of employees of public bodies or members of governing councils of public bodies.

The head of a public body may, in responding to a request for access, refuse to confirm or deny the existence of a record containing personal information about a third party, if disclosure of the existence of the record would be an unreasonable invasion of the third party's privacy.

Section 33 of FIPPA provides that the head of a public body must, where practicable, notify a third party in writing if the head is considering giving access to a record the disclosure of which might result in an "unreasonable invasion" of the third party's privacy under section 17. Sections 33 and 34 further provide that the third party has a right to make representations respecting the proposed disclosure.

▪ Business Interests of Third Parties [Section 18]

This mandatory exception to disclosure applies to third party trade secrets; to commercial, financial, labour relations, scientific or technical information supplied to the public body in confidence, and treated as confidential by a third party; and to commercial, financial, labour relations, scientific or technical information which, if disclosed, could reasonably be expected to:

- harm the competitive position of a third party;
- interfere with contractual or other negotiations of a third party;
- result in a significant financial loss or gain to a third party;
- result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied; or
- reveal information supplied to, or the report of, an arbitrator or other person appointed to resolve a labour relations dispute.

The head of a public body must refuse access to information about a third party that was collected on a tax return or for the purpose of determining tax liability or collecting a tax.

This exception protecting third party business interests does not apply if the third party consents to disclosure, if the disclosure is expressly authorized or required by a statute or regulation, if the information is publicly available, or if the information discloses the final results of product or environmental tests conducted for no fee by the public body.

The head of a public body has the discretion to disclose third party business information to an applicant, if the head believes that the private interest of the third party in non-disclosure is clearly outweighed by the public interest in disclosure for the purposes of public health, safety or environmental protection, improved competition, or government regulation of undesirable trade practices.

Under section 33, the head of the public body must, where practicable, notify a third party in writing if the head is considering giving access to a record which, if disclosed, might affect the third party's business interest.

▪ Cabinet Confidences [Section 19]

The head of a public body is required to refuse to disclose information that would reveal the substance of the deliberations of the Cabinet of the Manitoba Government or committees of Cabinet. This exception to disclosure does not apply to information that is more than 30 years old or if the Cabinet for which the record was prepared consents to the disclosure.

Local public bodies will rarely have information containing cabinet confidences in their custody or control.

- **Information Provided in Confidence by Another Government to a Local Public Body [Subsection 20(2)]**

The head of a local public body is required to refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal information provided, explicitly or implicitly, in confidence to the local public body by the Government of Manitoba or a government agency, any other government, or another local public body. This might include information received from the RCMP or other local police services, from a Child and Family Services Agency, or from another municipality, school division or regional health authority.

This exception does not apply if the source of the information consents to its disclosure or makes the information public.

■ Discretionary Exceptions to Disclosure [Sections 21 - 32]

A discretionary exception to disclosure permits the head of a public body to disclose information in a record, even though the information falls within the exception. A discretionary exception to disclosure **always** contains the phrase: "the head of a public body **may** refuse to disclose ...."

In determining whether to apply a discretionary exception, the head of a public body must first decide whether some or all of the information in the requested record falls within the discretionary exception provision. The head must then decide whether or not to disclose the information, even though the exception could be relied upon as a basis for refusing access.

The exercise of discretion is not simply a formality where the head routinely refuses access. For each request, the head must decide whether or not to exercise the discretion to disclose information, taking into consideration the information requested and the particular circumstances of the case. The head must not replace the exercise of discretion with a blanket policy that information will not be released, simply because it may be withheld under one of the discretionary exceptions. Discretion must be exercised in a meaningful manner.

The discretionary exceptions are:

- **Information Affecting Intergovernmental Relations [Section 21]**

The head of a public body has the discretion to refuse to disclose information which could reasonably be expected to harm relations between the Government of Manitoba or a Manitoba government agency and another government (Canadian or foreign) or a local public body.

The head of a local public body must have the consent of the Manitoba government department or government agency affected to disclose information which could be expected to harm relations with that Government or agency.

- **Local Public Body Confidences [Section 22]**

The head of a local public body has the discretion to refuse to disclose information if it might reasonably be expected to reveal:

- draft resolutions, by-laws or other legal instruments by which the local public body acts.

    This provision does not prevent a local public body from issuing draft by-laws, etc. to the public for discussion. This exception does not apply if the draft has been considered in a meeting open to the public.

- the substance of deliberations of the local public body's elected officials or governing body (or a committee of elected officials or of the governing body) if a statute, regulation, by-law, resolution or other legal instrument authorizes the holding of that meeting in the absence of the public.

    This provision is designed to ensure that bodies such as municipal councils, school boards, Boards of Governors of universities and colleges, hospital boards or directors, and their committees, can meet privately when necessary to engage in frank discussion about matters such as personnel and budgeting. It only applies with respect to deliberations at meetings of the local public body where there is legal authority to hold the meeting in the absence of the public. Examples of enactments which authorize meetings of local public bodies to be held in the absence of the public are subsection 152(3) of *The Municipal Act* and subsections 14(3) and (4) of *The Colleges Act.*

These exceptions to disclosure do not affect the right of a local public body to regulate either the procedures for its meetings or what may be discussed in a meeting closed to the public. These matters are governed by the legislation under which the local public body operates.

Where the information is in a record which is more than 30 years old, these exceptions do not apply. This limit to the local public body confidences exception is similar to the limit to the exceptions for Cabinet deliberations and advice to a public body.

- **Advice to a Public Body [Section 23]**

This discretionary exception protects the advisory and deliberative processes involving a public body. It is intended to ensure that full and frank discussion of issues can take place among officials, employees and others advising a public body.

The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal:

(a) advice, opinions, proposals, recommendations, analyses or policy options developed by or for the public body;
(b) consultations or deliberations involving officers or employees of the public body. For example, there is no specific exception to disclosure for minutes of meetings of officers or employees. However, if these minutes contain information which could reasonably be expected to reveal consultations or deliberations involving officers or employees of the public body, this information could be severed from the record;
(c) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the public body, or considerations that relate to those negotiations;
(d) plans relating to the management of personnel or the administration of the public body that have not yet been implemented. Once the plan has been implemented, access to the record can no longer be refused under this clause. Another exception to disclosure may, however, apply;
(e) the content of draft legislation, regulations and orders of ministers or the Lieutenant Governor in Council. This exception to disclosure primarily concerns the Government of Manitoba; and
(f) information, including proposed plans, policies or projects of a public body, the disclosure of which could reasonably be expected to result in disclosure of a pending policy or budgetary decision. Once the policy or budgetary decision has been made and implemented, this exception no longer applies. Another exception to disclosure may, however, apply to the information.

The above exceptions do not apply if the information is:

- in a record that is more than 30 years old;
- an instruction or guideline issued to officers or employees of the public body;
- a substantive rule or statement of policy that has been adopted by the public body

for the purpose of interpreting a statute or regulation or administering a program or activity of the public body;
- the result of a product or environmental test conducted by or for the public body;
- a statement of the reasons for a decision made in the exercise of a quasi-judicial function or discretionary power affecting the applicant;
- the result of background research of a scientific or technical nature undertaken in connection with the formulation of a policy proposal, except for economic or financial research related to the formulation of a tax or other economic policy of the public body;
- a statistical survey; or
- a final report or audit on the performance of the public body or any of its programs, except for reports on the performance of an individual who is or was an officer or employee of the public body.

▪ Disclosure Harmful to Individual Health or Safety or Public Safety [Section 24]

The head of a public body has the discretion to refuse to disclose to an applicant information in a record, including personal information about the applicant, if disclosure could reasonably be expected to:

- threaten or harm the mental or physical health or safety of another person;
- result (in the opinion of a duly qualified physician, psychologist or other appropriate expert) in serious harm to the applicant's mental or physical health or safety; or
- threaten public safety.

Occasionally, the mere knowledge that a record containing information described in this section exists could cause harm to the applicant, or to another person, or could threaten public safety. The head may refuse to confirm or deny the existence of the record in these rare situations.

▪ Law Enforcement Matters [Section 25]

Generally speaking, the head of a public body may refuse to disclose information in a record if it could reasonably be expected to:

- harm law enforcement activities and other specified investigative, regulatory, adjudicative and protective functions of a public body described in this section;
- disclose specified records or information respecting law enforcement and related matters described in this section; or
- be injurious to legal proceedings.

The head of a public body must refuse to disclose information in a record if it is in a law enforcement record and the disclosure is prohibited under a statute or regulation of the Government of Canada (for example, section 46 of the *Young Offenders Act*). The record need not have been created for the purpose of law enforcement provided it is submitted to, or used by, the public body for a law enforcement purpose.

These exceptions do not apply to a report on the success of a law enforcement program, unless disclosure could reasonably to be expected to cause any harm or interference with law enforcement as outlined in the exceptions. The exceptions also do not apply to a record that provides a general outline of the structure or programs of a law enforcement agency, such as the City of Winnipeg Police Department.

In some circumstances, the mere knowledge that a record containing information described in this section exists could cause harm to the applicant or to another person, or threaten public safety. The head of a local public body may refuse to confirm or deny the existence of the record in these rare situations under subsection 12(2).

- **Security of Property [Section 26]**

This discretionary exception to disclosure gives the head of a public body the discretion to refuse to disclose information that, if revealed, could reasonably be expected to harm or threaten the security of any property or system, including a building, vehicle, electronic information system or communications system.

- **Solicitor – Client Privilege [Section 27]**

The head of a public body has the discretion to refuse to disclose information that is subject to solicitor-client privilege, that has been prepared by or for an agent or lawyer of the public body relating to a legal matter, or that is contained in correspondence between an agent or lawyer of the public body and any other person relating to a legal matter.

The head must refuse to disclose information of other persons (third parties) that is subject to solicitor-client privilege.

- **Economic and Other Interests of a Public Body [Section 28]**

If disclosure of information in a record could reasonably be expected to harm the economic or financial interests or negotiating position of a public body or the Government of Manitoba, an applicant's request for access to that information may be refused. This includes trade secrets, innovative scientific or technical information, or information relating to pending policy decisions.

This does not apply to the results of a product or environmental test conducted by or for the public body, unless the test was done for the purpose of developing methods of testing or for the purpose of testing products for possible purchase.

- **Testing Procedures, Tests and Audits [Section 29]**

This exception permits the head to refuse to disclose information relating to testing or auditing procedures, specific tests to be given, or audits to be conducted if disclosure could reasonably be expected to prejudice the use or results of particular tests or audits

- **Confidential Evaluations [Section 30]**

The head of a public body may refuse to disclose personal information that has been provided in confidence, explicitly or implicitly, for the purposes of determining the applicant's eligibility or qualifications for employment, or for the purpose of awarding a contract.

- **Preservation of Heritage Resources and Life Forms [Section 31]**

This exception to disclosure reflects public concern for the preservation of heritage resources and rare or endangered species. The head of a public body has the discretion to refuse to disclose information in a record if disclosure could reasonably be expected to result in damage to or interfere with the protection or conservation of a heritage resource (as defined in *The Heritage Resources Act*) or any rare or endangered life form.

The head also has the discretion to refuse to disclose information regarding a contemplated designation of a heritage site, a municipal heritage site, or a heritage object under *The Heritage Resources Act*.

- **Information That Is or Will Be Available to the Public [Section 32]**

If an applicant requests access to information that already is freely available to the public or available for purchase, the head of the public body may refuse to disclose information under FIPPA. Instead, the public body should advise the applicant that the information is available without application and how it can be obtained.

If the information is going to be published or released within 90 days after the applicant's request is received, the head of the public body has the discretion to decide whether to withhold the information. In this case, the head must notify the applicant when the information becomes available. If the information does not become publicly available within 90 days, the head must re-consider the applicant's request for access as if it were a new application received on the last day of the 90-day period. The exception in this clause may not be used a second time as a basis for refusing to disclose the requested information to the applicant.

RECORDS AVAILABLE WITHOUT AN APPLICATION [SECTION 76]

The head of a local public body may decide that certain records may be made available to the public without an application under FIPPA. For example, the head of a local public body may believe that the 30-year closure period for in-camera meeting minutes is unnecessarily long and may exercise his or her discretion to make them available sooner. This is a discretion that should be exercised carefully, particularly to ensure that personal privacy is not violated. Once certain records have been made available under this section to one individual, the local public body should make them available to everyone in the same manner.

THIRD PARTY INTERVENTION RIGHTS [SECTIONS 33 and 34]

In addition to requesting personal information about themselves or records pertaining to a public body, applicants may request information that relates to a third party. The third party notice and intervention provisions in sections 33 and 34 are intended to protect the interests of a third party who would be affected by disclosure of a record to an applicant under FIPPA, because the third party is the subject of the record or has provided the record.

Where disclosure of information in a record might result in an unreasonable invasion of a third party's personal privacy or harm a third party's business interests, **and the head is considering giving access to this information**, the head must, where practicable, notify the third party as soon as practicable in writing of the request. Notification must be done within the 30-day period for responding to an application, or within the extended time period if the public body has extended the time limit for responding to the application. If the head of the public body intends to refuse to give the applicant access to the third party information, the third party does not need to be notified.

The notice to the third party must state that a request has been made for access to a record containing information which, if disclosed, might invade the privacy or affect the business interests of the third party. It should include a copy or description of the requested record **but should not identify the applicant**. The third party should be advised that he or she may make representations to the head explaining why the information should not be disclosed, and that the representations must be submitted to the head within 20 days after the notice is given. The public body should also provide the third party with sufficient information, including an explanation of the grounds on which records can be withheld under FIPPA, to enable the third party to make informed representations.

If several third parties are affected by the request in this manner, each one must be notified (where practicable).

The third party has 20 days after the notice is given to consent to disclosure or to make representations to the head explaining why the information should not be disclosed. Representations must be made in writing, unless the head permits them to be made orally.

When notice is given to a third party, the head must notify the applicant that the requested record contains third party information and that the third party is being given an opportunity to make representations about disclosure. **The identity of the third party should not be included in the notice to the applicant.**

The head of the public body has 30 days after the third party was notified to decide whether to grant or refuse access to the record. The head's decision cannot be made before the earlier of 21 days after the notice was given and the day a response is received from the third party. The head may extend the time for making a decision for up to an additional 30 days on the grounds set out in subsection 15(1).

In reaching a decision, the head of the public body must consider any representations made by the third party.

The head is required to give written notice of his or her decision respecting access, with reasons, to both the third party and the applicant.

If the applicant is given access to the record or part of the record, the third party may appeal to the Ombudsman within 21 days after the notice of the decision is given. If the third party does not complain to the Ombudsman within this 21-day period, the applicant will be given access to the record. If the third party complains to the Ombudsman within the 21 day time period, the time limit for the head of the public body to respond to the access application is extended under clause 15(1)(d). The applicant is not given access to any record that is the subject of the complaint until the complaint is dealt with by the Ombudsman and, in the case of an appeal by the third party to the court, until the appeal is completed.

If the applicant is refused access to the record, he or she has the right to make a complaint to the Ombudsman within 21 days from the date the notice of decision is given.

FEES
[SECTION 82; REGULATION, SECTIONS 4 to 7]

There is no fee for making an application under FIPPA. Nevertheless, the public body may require an applicant to pay some of the costs incurred by the public body in responding to the application. The *Access and Privacy Regulation* establishes four types of fees:

- **Search and Preparation Fees**
  - $15 per half hour after two free hours;
  - Time spent finding the requested records and doing any required severing may be charged;
  - Time spent reviewing the records to determine whether any exceptions apply, transferring an application to another public body, copying a record supplied to the applicant, preparing a fee estimate and preparing an explanation of the record cannot be charged to the applicant.

- **Computer Programming and Data Processing Fees**
  - $10 for each 15 minutes of internal programming or data processing or the actual cost incurred by the public body when this work is done by an external agency.

- **Copying Fees**
  - 20 cents per page for photocopies and computer printouts;
  - 50 cents per page for paper copies made from a microprinter;
  - Actual cost for any other copying method, such as photography;
  - Applicants requesting copies of their own personal information are not charged a copying charge if the total copying charge is less than $10.

- **Delivery Fees**
  - Applicants are charged actual costs for courier delivery. No fees are chargeable for regular mailing costs.

■ Fee Estimates [Subsections 82(2) to (4); Regulation, Section 8]

If an applicant will be required to pay search and preparation or computer programming fees, the head of the public body must give a fee estimate before providing the services. As soon as it appears likely that a fee will be charged, an *Estimate of Costs* Form should be sent to the applicant. A copy of the *Form* is in the Forms, Letters and Notices section of the *Handbook*.

Estimates should be prepared carefully because the public body cannot charge more than the estimated amount.

An applicant has up to 30 days from the date the estimate is given to advise the public body if the estimate is accepted or to modify the request in order to reduce the fee. If the applicant wishes the public body to proceed with the original request, he or she must submit payment for the total amount, along with a signed copy of the *Estimate of Costs Form*.

When a fee estimate is given to an applicant, the time within which the head is required to respond to the access application under subsection 11(1) is suspended until the applicant notifies the head that he or she wishes to proceed. If the applicant does not reply to a fee estimate within 30 days, the public body may consider the application to have been abandoned.

Fees charged for search and preparation, copying and delivery must not exceed the actual costs of the service. Refunds should be given if access to every requested record is refused or if the actual cost of the service is less than the estimate.

■ Fee Waivers [Subsection 82(5); Regulation, Section 9]

The head of a public body has the discretion to waive all or part of the fees in accordance with the regulations, if requested to do so by the applicant. The fees may be waived if the head is satisfied that:

- paying the fees would impose an unreasonable financial hardship on the applicant;
- the applicant is requesting access to his or her own personal information and the head is satisfied that it is fair to waive the fees in the circumstances; or
- the record relates to a matter of public interest concerning public health, safety or the environment.

The head of the public body must inform the applicant in writing of the decision regarding the request for a fee waiver. The applicant may make a complaint to the Ombudsman about a refusal to waive all or part of the fees payable.

PROTECTION OF PRIVACY

Part 3 of FIPPA protects an important aspect of privacy: it imposes obligations on public bodies respecting the management of personal information in their custody or under their control.

The provisions of Part 3 of FIPPA do not apply to personal health information. Part 3 of *The Personal Health Information Act* sets out the rules respecting collection, protection, use and disclosure of personal health information by trustees, including public bodies.

WHAT IS PERSONAL INFORMATION?
[SECTION 1 Definition]

As discussed in the section "Definitions in FIPPA", "personal information" is defined in FIPPA as "recorded information about an identifiable individual . . . ."

COLLECTION OF PERSONAL INFORMATION
[SECTIONS 36 and 37]

Under FIPPA, a public body may collect personal information only if:

- collection of the information is authorized by or under a statute or regulation of Manitoba or Canada;
- the information relates directly to and is necessary for an existing program or activity of the public body; or
- the information is collected for law enforcement purposes or crime prevention.

For the purposes of this section, a public body "collects" personal information whenever it gathers or brings together or creates, by any means, a record of personal information. For example, a public body is collecting personal information when individuals fill out application forms which request personal information, complete surveys (provided that the individual is identifiable), or provide answers, which are recorded in some way, in an interview. A public body is bound by the requirements of FIPPA whether it collects the personal information itself or authorizes another public body or an outside agent to collect the information on its behalf.

Public bodies are required to collect only as much personal information as is reasonably necessary to accomplish the purpose for which it is collected.

In most circumstances, personal information must be collected **directly** from the individual the information is about. This ensures that the individual is aware of the personal information that a public body is gathering about him or her.

However, FIPPA authorizes **indirect collection** of personal information (that is, collection of personal information from someone other than the individual it is about) in a number of circumstances. These situations include when:

- the individual has consented to collection from another source;
- a statute or regulation of Manitoba or Canada authorizes another method of collection;
- direct collection of the information could reasonably be expected to cause harm to the individual the information is about or to another person;
- collection of the information is in the interest of the individual, but time or circumstances do not permit direct collection;
- collection from the individual could reasonably be expected to result in inaccurate information being collected;
- collection is for law enforcement purposes or crime prevention;
- the information is collected for the purpose of legal proceedings or to provide legal advice or legal services to the public body;
- the information concerns the history, release or supervision of an individual in a correctional authority;
- the information concerns the security of a correctional institution;
- the information is collected to enforce a maintenance order under *The Family Maintenance Act*;
- the information is collected for the purpose of informing The Public Trustee or the Vulnerable Persons' Commissioner about clients or potential clients;
- the information is collected to determine the eligibility of an individual to participate in a program or receive a benefit from the public body and is collected in the course of processing an application made by or on behalf of the individual the information is about;
- the information is collected to verify the eligibility of an individual who is participating in a program or receiving a benefit or service from the public body;
- the information is collected for the purpose of determining the amount of or collecting a fine, tax or payment owing to the public body;
- the information is collected for the purpose of making a payment;
- the information is collected to manage personnel of the public body;
- the information is collected for the purpose of auditing or evaluating the activities of the public body; or
- the information is required to determine the individual's suitability for an honour or award.

When collecting personal information directly from the individual, the public body must inform the person of the purpose of the collection and the legal authority, and provide the title, business address and telephone number of an officer or an employee of the public body who can answer the individual's questions about the collection. This information will usually be provided in writing. A sample notification is provided in the Forms, Letters and Notices section of the *Handbook*. There may be circumstances in which it is necessary to notify the individual verbally, for example, in some law enforcement situations, in situations where information is collected over the telephone or where the individual has difficulty understanding written information. In these cases, the officer or employee providing the information should keep a written record of the information provided and should also consider whether it is practical and advisable to follow-up with written confirmation.

Where a public body has recently provided the individual with the required information about the collection of the same or similar personal information for the same or a related purpose, the public body is not required to provide this information again.

MAINTAINING ACCURATE PERSONAL INFORMATION [SECTION 38]

Public bodies are required to take reasonable steps to ensure that any personal information that they use to make a decision that directly affects the individual is accurate and complete.

RIGHT TO CORRECT PERSONAL INFORMATION [SECTIONS 39 and 40]

An individual who has been given access to a record containing his or her personal information under Part 2 of FIPPA has the right to request corrections to incorrect or incomplete information. The head of the public body must respond to the applicant within 30 days after receiving a request for correction of personal information, unless the time period has been extended for one of the reasons set out in subsection 15(1).

The head of the public body may make the requested correction and notify the applicant of the correction. If the head of the public body refuses to make the correction (because, for example, the applicant has not provided adequate proof in support of the requested correction or the information is non-factual evaluative information or an opinion), the head must notify the applicant of the reason for the refusal, that the request for correction has been added to the record and that the applicant has a right to make a complaint to the Ombudsman about the refusal. As well, head of the public body must attach the correction request to the record.

Where practicable, the public body must inform other public bodies, or third parties who have received the personal information from the public body within the previous year, of any corrections or that a request for correction has been added to the record. A public body that receives notice of correction, or of a request for correction, from another public body must either make the correction to its own record of the personal information or add the request for correction to its record.

RETENTION OF PERSONAL INFORMATION
[SECTION 40]

Public bodies must establish written policies regarding the retention of personal information, which will be used to make a decision that direct affects the individual. Personal information should be kept for a reasonable period of time, to allow individuals an opportunity to access their own information.

The requirement to establish a retention policy under this section does not apply where the retention of records is addressed in another statute or in a regulation.

PROTECTION OF PERSONAL INFORMATION
[SECTION 41]

The head of a public body must make arrangements to protect the personal information in its custody or under its control against risks such as unauthorized access, use, disclosure or destruction. Such security arrangements must be in accordance with the regulations to FIPPA. While there are no requirements respecting protection of personal information in the *Access and Privacy Regulation* at the present time, the *Personal Health Information Regulation* contains requirements respecting security of personal health information which apply to public bodies and other trustees of personal health information.

USE OF PERSONAL INFORMATION [SECTIONS 42, 43, 45 and 46]

In Part 3 of FIPPA, "use" of personal information means access to and use of personal information by the officers, employees and agents of the public body with custody or control of the information, for the purposes of that public body.

Under FIPPA, a public body may use personal information only:

- for the purpose for which it was collected or compiled or for a use consistent with that purpose (a "consistent" use is one which has a reasonable and direct connection to the purpose for which the information was collected and which is necessary for performing statutory duties, operating an authorized program, or carrying out an activity of the public body);
- for another purpose if the individual the information is about consents to the use;
- for a purpose for which it has been disclosed to the public body by another public body , when the other public body is authorized to disclose it; or
- to link information databases or to match personal information in different databases, if the use has been approved by the head of the public body following a privacy assessment review.

Every use of personal information by or on behalf of the public body must be authorized under section 43 of FIPPA and must be limited to the minimum amount of information necessary to accomplish the purpose for which it is used. Access to and use of personal information by the employees or agents of the public body must be limited to those who need to know the information to carry out the purpose for which the information was collected or received or to carry out a purpose authorized under section 43 of FIPPA.

DISCLOSURE OF PERSONAL INFORMATION [SECTIONS 42, 44 and 48]

A public body "discloses" personal information any time it releases, reveals, shares or sells the information to any person or entity outside the public body by any means (for example, by providing copies, verbally, or electronically). Sharing personal information with other local public bodies, a Manitoba government department, the federal government, or any other government is disclosure of personal information which must be authorized under section 44.

FIPPA authorizes disclosure of personal information only in certain specified situations. However, this is discretionary and the head of the public body must determine whether or not it is appropriate to disclose the personal information in the circumstances (taking into account both the potential harm that would result from disclosure and the consequences of not disclosing the information). The head of the public body must also determine how much personal information should be disclosed, keeping in mind the requirement in FIPPA that every disclosure must be limited to the amount of information necessary to accomplish the purpose for which it is disclosed.

Some clauses of this subsection are, in practice, more discretionary than others. For example, in reality a public body has no discretion to refuse to disclose personal information when disclosure is required (as opposed to authorized) by another Act or regulation of Manitoba or Canada or is required by a court order.

Local public bodies should review their activities to ensure that personal information is being disclosed in accordance with the requirements of FIPPA.

These are the main purposes or situations in which a public body may disclose personal information:

- for the purpose for which the information was collected or compiled or for a consistent purpose;
- with consent of the individual the information is about;
- in accordance with the Access to Information provisions in Part 2 of FIPPA;
- to comply with a statute or regulation of Manitoba or Canada or a treaty or agreement under a statute;
- in accordance with a statute or regulation of Manitoba that authorizes or requires the disclosure;
- to an elected official of the public body, if the information is necessary to carry out his or her responsibilities;
- for the purpose of administering personnel of the public body or the Government of Manitoba;
- for audit purposes;
- to the Government of Canada to facilitate the monitoring or auditing of shared cost programs;
- to determine or verify an individual's suitability or eligibility for a program or benefit;
- to enforce a maintenance order;
- to protect the health or safety of an individual or groups of individuals;
- to comply with a subpoena or order made by a court or body with jurisdiction to compel the production of information or with a rule of court that relates to the production of information;
- for use in providing legal advice or services to the public body or the Government of Manitoba ;

- to enforce a legal right that the public body or the Government of Manitoba has against any person;
- to determine the amount of or collect a fine, payment or tax owing to the public body or the Government of Manitoba or to make a payment;
- for use in existing or anticipated legal proceedings to which the Government of Manitoba or the public body is a party;
- for law enforcement purposes or crime prevention;
- to supervise an individual in a correctional authority;
- where disclosure is necessary for the security of a correctional institution;
- to an officer of the Legislature, if the information is necessary for the performance of the duties of that officer;
- to contact a relative or friend of an individual who is injured or ill;
- to assist in identifying a deceased individual;
- to inform a relative of a deceased individual, or any other person it is reasonable to inform, of the individual's death ;
- to a relative of a deceased individual, if the public body believes that disclosure is not an unreasonable invasion of the deceased's privacy;
- to a person providing information technology services to the public body (an agreement protecting the personal information against risks such as unauthorized access must be in place);
- when the information is available to the public;
- when authorized following a privacy assessment review;
- when authorized for research purposes; or
- when the record is more than 100 years old.

CONSISTENT PURPOSE
[SECTION 45]

FIPPA authorizes the use or disclosure of personal information for a purpose consistent with the purpose for which it was collected. A proposed use or disclosure must meet two requirements to meet the test of consistent purpose:

- the proposed use or disclosure must have a reasonable and direct connection to the purpose for which the personal information was originally collected or compiled; and
- the proposed use or disclosure must be necessary for performing the statutory duties, operating an authorized program, or carrying out an activity of the public body that uses or discloses the information.

There are no hard and fast rules as to what constitutes a use for a "consistent purpose".

One guideline to consider is whether a reasonable person would anticipate or expect the personal information to be used or disclosed in the proposed way, even if this use or disclosure was not spelled out at the time the personal information was collected.

PRIVACY ASSESSMENT REVIEW PROCESS [SECTIONS 46 and 77; REGULATION, SECTION 13]

There may be some cases where there appears to be a strong public interest in a proposed use or disclosure of personal information which is not specifically authorized under another section in Part 3, or in an access request for a volume or bulk disclosure under Part 2. The Minister Responsible for FIPPA has established a Privacy Assessment Review Committee which local public bodies may use to obtain advice on the proposal or request. Alternatively, a local public body may conduct its own internal privacy assessment. Following the review process, the head of the local public body must make the decision on whether to authorize the use or disclosure.

Section 46 only applies if the proposed use or disclosure is not authorized under another provision in FIPPA and:

i. the public body proposes to use or disclose personal information in order to link information databases or match personal information in one information database with information in another database; or
ii. the public body has received a request for disclosure of personal information in a public registry or in another collection of personal information on a volume or bulk basis.

To obtain additional information about the Privacy Assessment Review Committee and the documentation which must be submitted to the Committee, contact the Secretary to the Privacy Assessment Review Committee, Access and Privacy Services,
3 – 200 Vaughan Street, Winnipeg MB R3C 1T5 (phone: 945-3738 or 1-800-617-3588).

Where the head of a local public body has referred a proposal to the Privacy Assessment Review Committee for advice, the head must receive and consider the Committee's advice before making a decision. When considering whether or not to approve a proposal or request, the head must be satisfied that all of the following conditions are met:

- the purpose of the proposal or request cannot reasonably be accomplished unless the personal information is provided in a form that identifies individuals;
- it is unreasonable or impractical to obtain consent from the individuals the personal information is about; and

- the use or disclosure is not likely to harm the individuals the personal information is about and the benefits to be derived are clearly in the public interest.

If the head of a public body approves a proposed use or disclosure of personal information, the public body must conclude a written agreement with the recipient of the information. This agreement must set the conditions for the handling and protection of the personal information.

DISCLOSURE OF PERSONAL INFORMATION FOR RESEARCH PURPOSES [SECTION 47]

The head of a public body has the discretion to disclose personal information for a research purpose if:

- the head is satisfied that the information is legitimate;
- the research cannot be accomplished without the individual identifiers;
- it is unreasonable or impractical for the researcher to obtain consent from the individuals;
- disclosure of the personal information, and any information linkage, is not likely to harm the individuals; and
- the anticipated benefits of the research are clearly in the public interest.

The head may, but is not required to, refer the research proposal to the Privacy Assessment Review Committee for its advice.

If the public body decides to disclose the information for research purposes, it must enter into a written agreement with the researcher. This agreement should describe the research project and cover issues such as security measures to protect the information, removal of personal identifiers as soon as possible, and the prohibition of any subsequent use or disclosure of the information in a form that identifies individuals.

ROLE OF THE OMBUDSMAN

GENERAL POWERS AND DUTIES OF THE OMBUDSMAN [SECTION 49 and 58]

FIPPA provides for an independent review of the decisions of public bodies respecting:

- requests for access to information under Part 2; and
- protection of personal information under Part 3.

Parts 4 and 5 of FIPPA assign this independent review function to the Manitoba Ombudsman and set out that Office's powers, duties, and the complaint process.

The Ombudsman is an Officer of the Legislative Assembly appointed under *The Ombudsman Act* and, as such, is independent of the Government of Manitoba. The Ombudsman investigates complaints relating to administrative acts, decisions or omissions by departments and agencies of the provincial and municipal governments under *The Ombudsman Act*, and reviews compliance with access to information and privacy rights under FIPPA and PHIA. The Ombudsman may delegate any duty or power under FIPPA to any person on his or her staff.

In addition to the Ombudsman's powers and duties respecting investigation of complaints, the Ombudsman has various general powers under FIPPA including the following:

- audit and monitor compliance with FIPPA and its regulations;
- receive comments from the public about the administration of FIPPA;
- comment on the access and privacy implications of proposed legislation and programs of public bodies;
- make recommendations to the head of a public body or the Responsible Minister about the administration of FIPPA;
- bring to the attention of the head of a public body any failure to fulfil the duty to assist an applicant requesting access under Part 2;
- conduct investigations and make recommendations respecting compliance with the requirements respecting security and destruction of records in any other statute or regulation, or in a by-law or other legal instrument by which a local public body acts;
- comment on the privacy implications of using or disclosing personal information for records linkage purposes, and of using information technology in the collection, storage, use or transfer of personal information;
- make recommendations respecting public body practices of collecting, using or disclosing information that contravene FIPPA; and
- recommend destruction of a collection of personal information not collected in accordance with FIPPA.

The Ombudsman cannot order that a public body comply with FIPPA. Nevertheless, with extensive powers to conduct investigations and to bring public scrutiny to bear on access to information and privacy issues, the Ombudsman is a persuasive watchdog for the public's rights to access information held by public bodies and to have personal information protected.

The role of the Ombudsman in relation to personal health information is similar under PHIA.

The Ombudsman submits an annual report to the Manitoba Legislature summarizing the investigations undertaken during the year and the responses of the public bodies, and discussing significant access and privacy issues that have arisen during the year. The Office may also issue special reports related to any matter within its mandate.

POWERS OF THE OMBUDSMAN WHEN CONDUCTING AN INVESTIGATION [SECTIONS 50 to 57]

In carrying out an investigation under FIPPA, the Ombudsman has all the powers and protections of a commissioner under Part V of *The Manitoba Evidence Act* including the power:

- to summon witnesses by subpoena or summons;
- to require witnesses to produce documents necessary to the investigation;
- to examine witnesses under oath or affirmation;
- to enter and inspect any building or property, if this will assist in the investigation;
- to issue a warrant to have a witness brought before the Ombudsman where the witness has been summoned and refuses or neglects to appear;
- to issue a warrant committing a witness to jail for not more than a month where the witness has been summoned to appear and refuses to answer questions without lawful excuse; and
- to search all documents or records relating to persons or matters within the scope of the investigation in any public office existing under any Act of the Legislature, without fee or charge.

At the request of the Ombudsman, a public body must provide a record, or a copy of a record, to that Office within 14 days. If it is not practicable to make a copy of the requested record, the head may require the Ombudsman to examine the original recordat its site.

The Ombudsman has the right to enter any office of a public body, to examine and make copies of any record in the custody of the public body and to meet in private with any officer or employee of a public body. All investigations of the Ombudsman's Office are conducted in private.

It is an offence, subject to a maximum fine of $50,000, to make a false statement to, mislead, or obstruct the Ombudsman.

In conducting its duties, the Office of the Ombudsman must not disclose any information that the head of a public body is authorized or required to refuse to disclose under FIPPA. The Office also must not reveal whether a record exists, if the head is authorized to refuse to confirm or deny the existence of the record.

The Ombudsman may only disclose:

- information that is necessary to perform a duty or exercise a power of the Ombudsman under FIPPA;
- information that is necessary to establish the grounds for findings and recommendations in a report under FIPPA; and
- information in the course of a prosecution in the criminal courts for perjury in respect of sworn testimony, a prosecution for an offence under FIPPA, or in an appeal to the Manitoba Court of Queen's Bench when the Ombudsman is a party to the appeal.

The Ombudsman may also disclose to the Minister of Justice and Attorney General for Manitoba information relating to the commission of an offence under FIPPA or any other statute or regulation of Manitoba or Canada, if the Ombudsman has reason to believe an offence has been committed.

COMPLAINTS TO THE OMBUDSMAN [SECTION 59 to 61]

A person who has requested access to a record under Part 2 of FIPPA may make a complaint to the Ombudsman about any decision, act, or failure to act by the head of a public body, related to that request. For example, an applicant may complain about a refusal to grant access to information, about an extension of the response time, or about the fees charged for search and preparation. Generally, complaints about access decisions must be made within 60 days of notification of the decision.

A third party, notified of a decision by the head of a public body to give access to a record containing information affecting the third party's privacy or business interests, may make a complaint to the Ombudsman about the decision to give access within 21 days after notice of the decision.

A person who has requested correction of a record may make a complaint to the Ombudsman about a refusal by the head of the public body to correct the records, within 60 days of notice of the decision.

An individual who believes that his or her personal information has been collected, used or disclosed in violation of the privacy protection provisions in Part 3 of FIPPA may make a complaint to the Ombudsman. There is no time limit for making a complaint about the management of personal information by a public body. However, the Ombudsman may decide not to investigate the complaint if a long time has elapsed.

A relative of a deceased individual may make a complaint about the decision of a head not to disclose personal information about the deceased.

The Ombudsman may initiate a complaint respecting any matter if the Ombudsman believes there are reasonable grounds to investigate the matter under FIPPA.

Complaints must be made on the form prescribed by the *Access and Privacy Regulation;* a copy is included in the Forms, Letters and Notices section of the *Handbook*.

INVESTIGATION OF COMPLAINTS [SECTIONS 61 to 65]

The Ombudsman's Office must notify a public body as soon as practicable after receiving a complaint against it.

The Ombudsman may take any steps that he or she feels are appropriate to resolve a complaint to the satisfaction of the parties and in keeping with the purposes of FIPPA.

The complainant and the head of the public body are entitled to make representations to the Ombudsman, either directly or through an agent. This may be done orally or in writing, at the discretion of the Ombudsman.

Investigations will be completed within 90 days of receipt of the complaint, unless the time limit is extended by the Ombudsman.

OMBUDSMAN'S REPORT ABOUT A COMPLAINT [SECTION 66]

Upon completion of an investigation about a complaint, the Ombudsman is required to prepare a report containing the findings and any recommendations considered appropriate. A copy will be sent to the head of the public body concerned and to the complainant, and may be sent to any other person who has made representations to the Ombudsman about the complaint.

In reports about access to information, including third party complaints about decisions of public bodies to release information, the Ombudsman may support the complainant and recommend that the public body release some or more information. On the other hand, the Ombudsman may agree with the decision of the public body.

If the Ombudsman's report contains recommendations, the head of the public body must, within 15 days of receiving the report, send a written response to the Ombudsman indicating:

- if the recommendations are accepted, what action has been taken or will be taken to implement them; or
- the reasons why the head refuses to implement the recommendations.

If the head accepts the recommendations, the public body must comply with them within 15 days if the complaint related to access to a record, correction of a record or disclosure of personal information about a deceased individual to a relative, within 45 days in any other case, or within such longer period of time as the Ombudsman considers reasonable.

The Ombudsman is required to notify the complainant without delay of the head's response. In the case of a response that indicates a refusal to take action on recommendations involving a denial of access to a record, the Ombudsman must also inform the complainant that an appeal of the decision of the head may be made to the Manitoba Court of Queen's Bench and of the time limit for the appeal. Similarly, if the complaint is by a third party who has been notified by the head of the public body of a decision to give access to information affecting the privacy or business interests of the third party, the Ombudsman must inform the complainant that he or she may appeal the head's decision to the Court of Queen's Bench and of the time limit for the appeal.

In addition, the Ombudsman must inform a complainant if the Ombudsman intends to appeal the decision of the head to the Court of Queen's Bench under section 68 of FIPPA.

APPEALS TO COURT

[SECTIONS 67 to 74]

An applicant whose request for access to a record has been refused and who has received a report from the Ombudsman's Office may appeal to the Manitoba Court of Queen's Bench. A third party may also appeal a decision of a head of a public body to disclose the third party's business or personal information, after the Ombudsman has completed his or her report.

If the Ombudsman believes that a case raises a significant issue of statutory interpretation or that an appeal is clearly in the public interest, the Ombudsman may appeal to the Court of Queen's Bench concerning a denial of access or a release of third-party information, with the consent of the person who has the right of appeal. The Ombudsman's Office may also intervene as a party to an appeal by a complainant respecting a decision to refuse access or a decision to give access to third-party information in a record.

Generally, an appeal must be filed with the Court of Queen's Bench within 30 days after the person receives the Ombudsman's report or within 30 days after the person receives a notice from the Ombudsman about the head's response to the Ombudsman's report. The Court may allow a longer period of time for filing an appeal in special circumstances.

The head of the public body is named as the respondent to the appeal.

The burden of proof varies according to the type of case. In general, when an appeal relates to a denial of access to information, the head of the public body has the burden of proving to the Court that the applicant has no right of access. In cases involving a request for access to personal information about a third party, the applicant must prove that access to the information would not be an unreasonable invasion of the third party's privacy. When the request relates to third party business information, the third party must prove that an applicant does not have a right of access to the record or part of the record.

The Court may order production of any record in the custody or under the control of the public body for examination. However, it must take every reasonable precaution to avoid disclosure of information that the head of the public body is authorized or required to refuse to disclose and to avoid disclosing whether a record exists if the head is authorized to refuse to confirm or deny that the record exists.

On hearing an appeal, the Court may dismiss the appeal if it determines the head was authorized or required to refuse access to a record. If the Court determines that the head was not authorized or required to refuse access, it may order the head of the public body to give access to some or all of the information. The Court may also make other orders it considers appropriate.

If the Court finds that a record, or part of a record, falls within an exception to disclosure, the Court can not order the head of the public body to give the applicant access to that record or part of it, regardless of whether the exception requires or merely authorizes the head to refuse access. For example, where the record falls within a discretionary exception to disclosure and the head has properly exercised his or her discretion to refuse access, the Court cannot order disclosure of the record.

A decision of the Manitoba Court of Queen's Bench on appeal under Part 5 of FIPPA is final and binding and there is no appeal from this decision.

There is no appeal to court about the collection, use or disclosure of personal information by a public body under Part 3 of FIPPA.

FORMS, LETTERS AND NOTICES

The forms are provided here for easy reference and copying.

The sample letters and notices, prepared with the assistance of legal counsel, will help local public bodies to correspond with applicants, third parties and others under FIPPA. They are provided for guidance only and may require modification to meet the requirements of specific situations.

Forms

Application Page 1
Estimate of Costs Page 3
Complaint Page 4
Local Public Body FIPPA Annual Report Page 5

Preliminary Matters

Acknowledgment of Request or Request for More Details Page 10
Confirmation of Request as Clarified Page 12
Notice of Transfer of Request to Another Public Body Page 13
Notice of Extension of Time Limit Page 15
Fee Estimate and Waiver of Fees Page 18

Decision Respecting Access

Record Does Not Exist or Cannot Be Located Page 20
Access Granted Page 22
Access Granted and Decision Respecting Request for Fee Waiver Page 24
Access Partially Granted Page 27
Access Partially Granted and Decision Respecting Request for Fee Waiver Page 30
Access Refused Page 33
Refusal to Confirm or Deny the Existence of a Record Page 34

Refusal of a Repetitive or Incomprehensible Request Page 36
Notice that Information Has Become Publicly Available Page 38

Third Party Intervention Process under Sections 33 and 34

Formal Notice to Third Party: Privacy Interests May Be Affected Page 40
Formal Notice to Third Party: Business Interests May Be Affected Page 42
Notice to Applicant of Third Party Notice Page 44
Notice to Third Party of Decision to Give Access where Third Party has Consented Page 46
Notice to Applicant of Decision to Give Access where Third Party has Consented Page 47
Notice to Third Party of Decision to Give Access or Partial Access Without Consent Page 50
Notice to Applicant of Decision to Give Access or Partial Access Without Consent Page 53
Notice to Third Party of Decision to Refuse Access Page 55
Notice to Applicant of Decision to Refuse Access Page 57

Correction of Personal Information

Receipt of Request to Correct Personal Information Page 59
Notice to Applicant of Decision respecting Correction Page 60
Notice to Other Public Bodies respecting Correction Page 62

Personal Information Collection Notification Statement Page 64

Freedom *of*
Information
and Protection
of Privacy
Act

APPLICATION FOR ACCESS

Manitoba

Please see reverse for instructions

Applicant

Surname: ____________________ First Name: ____________

Address: ______________________________________

____

____________________ Postal Code: ____________

Daytime Telephone Number: ____________ Fax Number: ____________

What Information Are You Requesting? Please check one ✓

My own personal information ☐

General information ☐

Personal information for another person (*Attach proof of authority*) ☐

I wish to obtain access to the following records:

Applicant's Signature: ______________________

For Public Body Use Only

Date Received: ____________ **Number:** ____________

Send Top Copy. Retain Other Copy for Your Records.

INSTRUCTIONS

Please

- Make only one request on each application form.

- Describe the records or information to which you want access in as much detail as possible.

- Send or take this form to the Access and Privacy Coordinator of the public body most likely to have the records you wish access to. Addresses of Coordinators are provided in the ***Access and Privacy Directory*** found in most public body offices and public libraries, or on the **Internet** at www.gov.mb.ca.

  The addresses may also be obtained by calling the

  - Government Records Office (945-3738 or toll free in Manitoba 1-800-617-3588)

    or

  - Citizens' Inquiry Service (945-3744 or toll free in Manitoba 1-800-282-8060)

- Keep a copy for your records.

- Note that you may be asked to pay certain costs as prescribed by Regulation, before gaining access to records.

- Note that if the public body does not respond within 30 days of receipt of this application, or if the public body extends this 30-day time period under subsection 15(2) of the Act, you may file a complaint with the Office of the Ombudsman.

Personal information collected on this form is protected by
The Freedom of Information and Protection of Privacy Act
and will be used only to respond to this request.
Inquiries about the use and protection of this personal information
should be directed to the Access and Privacy Coordinator
of the public body to whom the application is sent.

Freedom *of*
Information
and Protection
of Privacy
Act

ESTIMATE OF COSTS

Manitoba

In accordance with subsection 82(2), you are being advised by this estimate that there is a fee payable for responding to your application for access to records. The estimate is as follows, based on charges authorized under sections 4 and 6 of the *Access and Privacy Regulation*:

APPLICATION NUMBER: ____________________

Search and Preparation Fee:

Time in excess of two hours . . . . ________ hours
Estimated cost (at $15.00 each half hour) . . . . $__________

Computer Programming and Data Processing Fee:

- Internal work
  Time estimate . . . . ________ minutes
  Estimated cost (at $10.00 each 15 minutes) . . . . $__________
- External Work
  Estimated cost (at actual cost) . . . . $__________

Total of estimated costs . . . . . $__________

Please note: There is generally an additional charge for obtaining copies.

A refund will be made if access to every record requested is refused, or if the actual cost is less than this estimate.

Signed: ____
(Access and Privacy Officer or Coordinator)

Name of Public Body: ______________________________________

Address: ____

Date: ____________________

Please indicate your willingness to proceed by signing below and returning a copy of this form with a cheque payable to ______________________________ Applicants have up to 30 days from the date the estimate is given to indicate if it is accepted or to modify the request in order to change the amount of the fees. After this period, the application would be considered to be abandoned. We shall notify you when the records are ready.

Applicant's Signature: **Date:**

Freedom *of* Information *and* Protection *of* Privacy Act

COMPLAINT

Manitoba

To the Manitoba Ombudsman:

I wish to complain under *The Freedom of Information and Protection of Privacy Act* that:

Check (✓) the appropriate box

☐ I have not received a reply to my application. It has been ______ days since I applied.

☐ I have received notice that an extension beyond 30 days is being sought. I contest the need for this extension.

☐ I have been denied access to all or part of the records for which I applied.

☐ My request for correction to my personal information as provided for in section 39 has been refused.

☐ As a third party, I wish to contest under section 59(2) a public body's decision to give access to records against my wish.

☐ I believe my own personal information has been collected (___), or used (___), or disclosed (___) in violation of Part 3, Protection of Privacy.

☐ As a relative of a deceased person, I contest the decision of a public body not to disclose my relative's personal information under clause 44(1)(z).

☐ Other? Please specify: ____

____

Surname: ______________________ **First Name:** ______________

Address: ____

____

______________________ **Postal Code:** ______________

Daytime Telephone Number: ______________ **Fax Number:** ______________

PLEASE SEND THIS FORM TO:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg, Manitoba R3C 3X1

FOR THE USE OF THE OFFICE OF THE OMBUDSMAN

Date Complaint Received : ______________________________

Freedom *of*
Information
and Protection
of Privacy
Act

LOCAL PUBLIC BODY ANNUAL REPORT

- ***This information is collected, in accordance with FIPPA Section 83, for the Annual Report of the Minister Responsible for The Freedom of Information and Protection of Privacy Act.***

- ***Please return the completed form by January 31 to:***

Access and Privacy Services
Provincial Archives of Manitoba
200 Vaughan St., Winnipeg MB R3C 1T5
Fax: 948-2008

- ***If you have any questions, please contact Wendy Elliott at 945-2523 or 1-800-617-3588 or welliott@gov.mb.ca.***

Name of Public Body:	
Year:	
Name of Access and Privacy Officer:	
Address, Phone, Fax Number	

Signature of Access and Privacy Officer

Date

FIPPA Part 2 - Access to Information

1. APPLICATIONS RECEIVED

1.1	Received **	
1.2	Brought Forward to this Year	
1.3	Subtotal *(Add 1.1 and 1.2)*	
1.4	Carried Forward to Next Year	
1.5	Withdrawn / Abandoned	
1.6	Subtotal *(Add 1.4 and 1.5)*	
1.7	Total Processed This Year *(Subtract 1.6 from 1.3)*	

** **Applications transferred to another public body should not be included, to avoid double counting.**

2. ACCESS DECISIONS

2.1	Access Granted	
2.2	Access Partly Granted	
2.3	Access Denied	
2.4	Record Does Not Exist	
2.5	Total *(Should equal totals in 1.7)*	

3. RESPONSE TIME

3.1	Within 30 days	
3.2	Within 30 - 60 days	
3.3	More than 60 days	
3.4	Total (Should equal totals in 1.7 and 2.5)	

4. USE OF EXCEPTIONS IN ACCESS DECISIONS

FIPPA	Mandatory Exceptions	Number of Applications in which Exception was used
s. 17	Disclosure harmful to a third party's privacy	
s. 18	Disclosure harmful to business interests of a third party	
s. 19	Cabinet confidences	
s. 20	Information provided by another government	
	Discretionary Exceptions	
s. 21	Disclosure harmful to relations between Manitoba and other governments	
s. 22	Local public body confidences	
s. 23	Advice to a public body	
s. 24	Disclosure harmful to individuals or public safety	
s. 25	Disclosure harmful to law enforcement or legal proceedings	
s. 26	Disclosure harmful to security of property	
s. 27	Solicitor-client privilege	
s. 28	Disclosure harmful to economic and other interests of a public body	
s. 29	Testing procedures, tests and audits	
s. 30	Disclosure harmful to confidential evaluations	
s. 31	Disclosure harmful to conservation of heritage resources and life forms	
s. 32	Information that is or will be public	

5. FEES COLLECTED

5.1	Search and Preparation Fees	$
5.2	Computer Programming and Data Processing Fees	$
5.3	Copying Fees	$

FIPPA Part 3 – Protection of Privacy

6. CORRECTION OF PERSONAL INFORMATION

Number of Requests	Number of Corrections Made	Number of Correction Requests Added to the Record

7. USE OR DISCLOSURE OF PERSONAL INFORMATION FOR DATA MATCHING, DATALINKING, OR A DISCLOSURE IN VOLUME OR BULK

How many times during the year was a use or disclosure of personal information approved under FIPPA Section 46? ________

8. DISCLOSURE OF PERSONAL INFORMATION FOR RESEARCH PURPOSES

How many times during the year was a disclosure of personal information for research purposes approved under FIPPA Section 47? ________

Acknowledgment of Request or Request for More Details

Purpose:	To acknowledge receipt of an applicant's request for access to records or to request more details to enable the records to be identified under subsection 8(2) of FIPPA.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

This is to confirm that, on *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

■ **Option 1: General Acknowledgement**

The Freedom of Information and Protection of Privacy Act requires that we make every reasonable effort to respond to your request in writing within 30 days after receiving it, unless:

- we extend the 30 day time period under section 15 of the *Act;* or
- the time for responding is suspended under subsection 82(4) of the *Act* until you respond to a fee estimate; or
- notice is given to an affected third party under section 33 of the *Act*.

If you have any questions, please write to me or call me at *[telephone number]*.

■ **Option 1: Need to Supply More Details – subsection 8(2) of FIPPA**

Unfortunately, your application does not provide enough detail to enable us to identify the records that you are requesting. We cannot begin to process your request until we receive additional information to help us *[identify the records requested/clarify your request]*.

Please contact me at *[telephone number]* so that we can discuss your request.

Sincerely,

[Name]
Access and Privacy Coordinator

Confirmation of Request as Clarified

Purpose:	To confirm an applicant's request for access to records as clarified after discussions with the applicant.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

Having had the opportunity to discuss your request for access with you on *[date]*, this is to confirm that your request is for the following records:

[describe the records or the information now being requested].

We will proceed to process your request for access on this basis. If my understanding as to your revised request is not correct, please contact me at *[telephone number]* as soon as possible.

Sincerely,

[Name]
Access and Privacy Coordinator

Notice of Transfer of Request to Another Public Body (Section 16)

Purpose: To notify an applicant that his/her request has been transferred to another public body as required by section 16 of FIPPA. Note that the transfer mus take place within 7 days after receipt of the request.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act: [Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

Your request has been transferred to *[name of other public body]* on *[date]*. Your request was transferred under subsection 16(1) of *The Freedom of Information and Protection of Privacy Act* because

■ **Option 1:**

the record was produced by or for *[name of other public body]*.

■ **Option 2:**

[name of other public body] was the first to obtain the record.

■ **Option 3:**

the record is in the custody or under the control of *[name of other public body]*.

[Name of other public body] is required to make every reasonable effort to respond to your request within 30 days after receiving it, unless:

- that time period is extended under section 15 of the *Act* by *[name of other public body]*; or
- the time for responding is suspended under subsection 82(4) of the *Act* until you respond to a fee estimate provided by *[name of other public body]*; or
- notice is given to an affected third party under section 33 of the *Act* by *[name of other public body]*.

If you have any questions, please contact *[name of the Access and Privacy Coordinator for the other public body]* at *[telephone number]* or call me at *[telephone number]*.

Sincerely,

[Name]
Access and Privacy Coordinator

cc: *[Access and Privacy Coordinator of other public body]*

Notice of Extension of Time Limit (Section 15)

Purpose: To notify an applicant of an extension of the time limit for responding to his/her request under section 15 of FIPPA.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

Please be advised that the 30 day period time for responding to your request has been extended for an additional __________ days and we expect to respond to your request by *[date]*.

■ **Option 1: Explanation of Extension: To Clarify Request – clause 15(1)(a)**

This extension of time is necessary because we need more information from you to enable us to identify the records you are requesting. This extension of time is permitted by clause 15(1)(a) of *The Freedom of Information and Protection of Privacy Act* which states:

> **15(1)** The head of a public body may extend the time for responding to a request for up to an additional 30 days, or for a longer period if the Ombudsman agrees, if
>
> (a) the applicant does not give enough detail to enable the public body to identify a requested record;

- 2 -

Please contact me at *[telephone number]* as soon as possible so that we can clarify what records you are requesting.

■ **Option 2: Explanation of Extension: Large Number of Records Requested or to be Searched – clause 15(1)(b)**

This extension of time is necessary because *[you have requested a large number of records/a large number of records must be searched to respond to your request]* and responding within the 30 day time period would interfere unreasonably with the operations of our *[department/agency]*. This extension of time is permitted by clause 15(1)(b) of *The Freedom of Information and Protection of Privacy Act* which provides:

> **15(1)** The head of a public body may extend the time for responding to a request for up to an additional 30 days, or for a longer period if the Ombudsman agrees, if
>
> (b) a large number of records is requested or must be searched and responding within the time period set out in section 11 would interfere unreasonably with the operations of the public body;

■ **Option 3: Explanation of Extension: Consultation with Third Party or Parties, or Another Public Body – clause 15(1)(c)**

This extension of time is necessary because a preliminary review of the records you have requested indicates that we need to consult with *[a third party/ third parties/another public body]* before we can decide whether or not to grant access to the records. This extension of time is permitted by clause 15(1)(c) of *The Freedom of Information and Protection of Privacy Act* which provides:

> **15(1)** The head of a public body may extend the time for responding to a request for up to an additional 30 days, or for a longer period if the Ombudsman agrees, if
>
> (c) time is needed to consult with a third party or another public body before deciding whether or not to grant access to a record;

If you have any questions regarding this extension of the time period for responding to your request, please call me at *[telephone number]*.

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision to extend the time period for responding to your request to the Manitoba Ombudsman. You have 60 days from the receipt of this notice of our decision to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

Sincerely,

[Name]
Access and Privacy Officer

Fee Estimate and Waiver of Fees (subsections 82(2) & 82(5) of FIPPA and Sections 8 & 9 of the Access and Privacy Regulation)

Purpose: To advise the applicant that fees will be charged for processing the request and to provide the estimate of fees required under subsection 82(2) of FIPPA and section 8 of the *Access and Privacy Regulation*. This letter also advises the applicant of the waiver of fees provisions in subsection 82(5) of FIPPA and section 9 of the Regulation. Note that under subsection 9(3) of the Regulation, the "head" for the purposes of a decision about a fee waiver is the deputy minister or equivalent.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

We have determined that fees are payable for processing your request, as permitted under section 82 of *The Freedom of Information and Protection of Privacy Act* and sections 4 to 8 of the *Access and Privacy Regulation*.

An Estimate of Costs Form is attached. Please indicate your desire to proceed with your request by signing the attached Form and returning it to us, with a cheque or money order for the total amount of the fees, payable to *[specify to whom fees are payable]*, within 30 days of receipt of this letter.

You have up to 30 days from the date this Estimate of Costs is given to indicate if the estimate is accepted or to modify your request for access in order to change the amount of the fees payable. If you do not respond within this time, subsection 82(3) of the *Act* permits us to assume that you have decided to abandon your request.

Please note that subsection 82(5) of the *Act* and section 9 of the *Access and Privacy*

Regulation gives *[our department/agency]* a discretion to waive payment of all or part of the required fees in some limited situations. Subsection 9(1) of the *Access and Privacy Regulation* states:

> **9(1)** At the applicant's request, the head of a public body may waive all or part of the fees payable under this regulation if the head is satisfied that
>
> (a) payment would impose an unreasonable financial hardship on the applicant;
>
> (b) the request for access relates to the applicant's own personal information and waiving the fees would be reasonable and fair in the circumstances; or
>
> (c) the record relates to a matter of public interest concerning public health or safety or the environment.

If you want us to consider waiving all or part of the fees payable, please write to me setting out detailed reasons, based on clause 9(1)(a), (b) or (c) of the Regulation, why we should consider a waiver of fees.

If you have any questions about the costs of processing your application, please call me at *[telephone number]*.

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about the fees payable to the Manitoba Ombudsman. You have 60 days from the receipt of this letter and the Estimate of Costs to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

Sincerely,

[Name]
Access and Privacy Officer *[or Coordinator, where authorized]*

Record Does Not Exist or Cannot Be Located (paragraph 12(1)(c)(i))

Purpose: To advise the applicant that the requested record does not exist or cannot be located under paragraph 12(1)(c)(i) of FIPPA.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

■ **Option 1: Records Do Not Exist**

The records you requested do not exist. Accordingly, your request for access is refused under paragraph 12(1)(c)(i) of *The Freedom of Information and Protection of Privacy Act*.

■ **Option 2: Records Cannot Be Located**

We have been unable to locate any records relating to your request. *[Summarize steps taken to locate records and, if the records have been destroyed, indicate when and under what authority this was done, if possible.]* Accordingly, your request for access must be refused under paragraph 12(1)(c)(i) of *The Freedom of Information and Protection of Privacy Act*.

- 2 -

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision to the Manitoba Ombudsman. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

If you have any questions, please contact me at *[telephone number]*.

Sincerely,

[Name]
Access and Privacy Officer

Access Granted (clause 12(1)(b) and subsection 14(1))

Purpose: To inform an applicant that access is granted under clause 12(1)(b) of FIPPA and to inform the applicant as to the manner in which access will be given under subsection 14(1).

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

I am pleased to inform you that your request for access to these records has been granted in full.

■ **Option 1: Payment of Fees Required**

On *[date]* we sent you an Estimate of Costs respecting your request. As indicated in the letter which accompanied the Estimate of Costs, the fees set out in the Estimate must be paid before access can be provided. Payment is required by cheque or money order, payable to *[identify to whom payment is to be made]*.

■ **Option 2: Copy requested and records can be reproduced**

As you requested a copy of these records, and as they can reasonably be reproduced, in accordance with clause 14(1)(a) of *The Freedom of Information and Protection of Privacy Act* a copy of the records *[is enclosed/will be provided on payment of the required fees]*.

■ **Option 3: Applicant has requested to examine the records**

As you have asked to examine these records, please contact *[Access and Privacy Coordinator]* at *[telephone number]* to make arrangements *[to pay the required fees and]* to examine the records.

■ **Option 4: Applicant has requested a copy of records which cannot be reproduced**

You have requested a copy of the records. However, they cannot reasonably be reproduced because *[explain why the records cannot be reproduced]*.

In accordance with clause 14(1)(b) of *The Freedom of Information and Protection of Privacy Act*, *[upon payment of the required fees]* you will be permitted to examine the records. Please contact *[Access and Privacy Coordinator]* at *[telephone number]* to make arrangements to examine the records.

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint to the Manitoba Ombudsman about this decision to allow you to examine the records, instead of providing copies of them. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 – 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

If you have any questions, please contact *[Access and Privacy Coordinator]* at *[business address and telephone number]*.

Sincerely,

[Name]
Access and Privacy Officer

Access Granted & Decision Respecting Request for Fee Waiver: (clause 12(1)(b), subsection 14(1) & subsection 82(5) FIPPA and subsection 9(2) Regulation)

Purpose: To inform an applicant that access is granted under clause 12(1)(b) of FIPPA and as to the manner in which access will be given under subsection 14(1), and to inform the applicant of the public body's decision respecting a request for a fee waiver under subsection 9(2) of the *Access and Privacy Regulation*.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

I am pleased to inform you that your request for access to these records has been granted in full.

■ **Option 1: Decision granting Waiver of Fees in Full**

On *[date]*, we received your written request for a waiver of *[all/part]* of the fees payable with respect to processing your request for access. We have considered your request and have decided to waive all of the fees payable (the amount of $_____) for the following reasons.

[Set out reasons for granting fee waiver in full, based on clause 9(1)(a), (b) or (c) of the Access and Privacy Regulation.]

- 2 -

■ **Option 2: Decision Refusing Waiver of Fees or Granting Partial Waiver of Fees**

On *[date]*, we received your written request for a waiver of *[all/part]* of the fees payable with respect to processing your request for access. We have considered your request and have decided to *[grant a partial fee waiver in the amount of $_____/refuse to waive the fees payable]* for the following reasons.

> *[Set out reasons for granting fee waiver in part or for refusing fee waiver, based on clause 9(1)(a), (b) or (c) of the Access and Privacy Regulation.]*

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision respecting your request for a waiver of fees to the Manitoba Ombudsman. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 – 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

■ **Option 3: Copy requested and record can be reproduced**

As you requested a copy of these records, and as they can reasonably be reproduced, in accordance with clause 14(1)(a) of *The Freedom of Information and Protection of Privacy Act* a copy of the records *[is enclosed/will be provided on payment of the required fees]*.

■ **Option 4: Applicant has requested to examine the records**

As you have asked to examine these records, please contact *[Access and Privacy*

- 3 -

Coordinator] at *[telephone number]* to make arrangements *[to pay the required fees and]* to examine the records.

■ **Option 5: Applicant has requested copy of records which cannot be reproduced**

You have requested a copy of the records. However, they cannot reasonably be reproduced because *[explain why the records cannot be reproduced]*.

In accordance with clause 14(1)(b) of *The Freedom of Information and Protection of Privacy Act*, *[upon payment of the required fees]* you will be permitted to examine the records. Please contact *[Access and Privacy Coordinator]* at *[telephone number]* to make arrangements to examine the records.

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision to allow you to examine the records instead of providing copies of them to the Manitoba Ombudsman. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 – 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

If you have any questions, please contact *[Access and Privacy Coordinator]* at *[business address and telephone number]*.

Sincerely,

[Name]
Head of the Local Public Body (*see subsection 9(3) Access and Privacy Regulation)*

Access Partially Granted (clause 12(1)(c) & subsection 14(1))

Purpose:	To inform an applicant that access is partially granted under clause 12(1)(c) of FIPPA and to inform the applicant as to the manner in which access will be given under subsection 14(1).

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act: [Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

> *[describe the records requested]*.

I am pleased to inform you that your request for access to these records has been granted in part.

In particular, access is granted to the following records:

> *[specify records to which access is being granted]*.

Access to the remaining records which you requested is refused, as these records contain information that falls within the following exceptions to disclosure in *The Freedom of Information and Protection of Privacy Act*.

> *[Identify the specific exception provisions relied on, quote the wording of the exception provisions or attach copies of them, and explain why they apply.]*

As required by subsection 7(2) of the Act, we have severed information that is excepted from disclosure and have provided you with as much information as possible.

- 2 -

■ **Option 1: Payment of Fees Required**

On [date] we sent you an Estimate of Costs respecting your request. As indicated in the letter which accompanied the Estimate of Costs, the fees set out in the Estimate must be paid before access can be provided. Payment is required by cheque or money order, payable to [identify to whom payment is to be made].

■ **Option 2: Copy requested and records can be reproduced**

As you requested a copy of the records, and as they can reasonably be reproduced, in accordance with clause 14(1)(a) of the Act copies of the records which are accessible under the Act *[are enclosed/will be provided on payment of the required fees]*.

■ **Option 3: Applicant has requested to examine the records**

You have asked to examine the records. However, the records contain information which is excepted from disclosure under the Act and which must be severed, and your right of access under subsection 7(2) of the Act does not extend to information which is excepted from disclosure. Accordingly, *[upon payment of the required fees access will be given/access is being given]* by providing you with copies of the records and parts of records which are accessible under the *Act*.

■ **Option 4: Applicant has requested a copy of records which cannot be reproduced**

You have requested a copy of the records. However, they cannot reasonably be reproduced because *[explain why the records cannot be reproduced]*. In accordance with clause 14(1)(b) of the Act, *[upon payment of the required fees]* you will be permitted to examine those records which are accessible under the Act. Please contact *[Access and Privacy Coordinator]* at *[telephone number]* to make arrangements to examine the records.

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Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about our decision respecting your request for access *[or for a fee waiver, or both]* to the Manitoba Ombudsman. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

Sincerely,

[Name]
Access and Privacy Officer

Access Partially Granted and Decision respecting Request for Fee Waiver (clause 12(1)(c) & subsection 14(1); subsection 82(5) FIPPA & subsection 9(2) Regulation)

Purpose: To inform an applicant that access is partially granted under clause 12(1)(c) of FIPPA and as to the manner in which access will be given under subsection 14(1) of FIPPA and to inform the applicant of the public body's decision respecting a request for a fee waiver under subsection 9(2) of the *Access and Privacy Regulation*.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act: [Our File Number*]

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

I am pleased to inform you that your request for access to these records has been granted in part.

In particular, access is granted to the following records:

[specify records to which access is being granted].

Access to the remaining records which you requested is refused, as these records contain information that falls within the following exceptions to disclosure in *The Freedom of Information and Protection of Privacy Act*.

[Identify the specific exception provisions relied on, quote the wording of the exception provisions or attach copies of them, and explain why they apply.]

As required by subsection 7(2) of the Act, we have severed information that is excepted from disclosure and have provided you with as much information as possible.

■ **Option 1: Decision granting Waiver of Fees in Full**

On *[date]*, we received your written request for a waiver of *[all/part]* of the fees payable with respect to processing your request for access. We have considered your request and have decided to waive all of the fees payable with respect to those records which can be provided to you (the amount of $_____) for the following reasons.

> *[Set out reasons for granting fee waiver in full, based on clause 9(1)(a), (b) or (c) of the Access and Privacy Regulation.]*

■ **Option 2: Decision Refusing Waiver of Fees or Granting Partial Waiver of Fees**

On *[date]*, we received your written request for a waiver of *[all/part]* of the fees payable with respect to processing your request for access. We have considered your request and have decided to *[grant a partial fee waiver in the amount of $_____/refuse to waive the fees payable]* with respect to those records which can be provided to you for the following reasons.

> *[Set out reasons for granting fee waiver in part or for refusing fee waiver, based on clause 9(1)(a), (b) or (c) of the Access and Privacy Regulation.]*

■ **Option 3: Copy requested and records can be reproduced**

As you requested a copy of the records, and as they can reasonably be reproduced, in accordance with clause 14(1)(a) of the Act copies of the records which are accessible under the Act *[are enclosed/will be provided on payment of the required fees]*.

■ **Option 4: Applicant has requested to examine the records**

You have asked to examine the records. However, the records contain information which is excepted from disclosure under the Act and which must be

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severed, and your right of access under subsection 7(2) of the Act does not extend to information that is excepted from disclosure. Accordingly, *[upon payment of the required fees access will be given/access is being given]* by providing you with copies of those records and parts of records which are accessible under the Act.

■ **Option 5: Applicant has requested a copy of records which cannot be reproduced**

You have requested a copy of the records. However, they cannot reasonably be reproduced because *[explain why the records cannot be reproduced]*. In accordance with clause 14(1)(b) of the Act, *[upon payment of the required fees]* you will be permitted to examine those records which are accessible under the Act. Please contact *[Access and Privacy Coordinator]* at *[telephone number]* to make arrangements to examine the records.

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about our decision respecting your request for access *[or for a fee waiver, or both]* to the Manitoba Ombudsman. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

Sincerely,

[Name]
Head of the Local Public Body *(see subsection 9(3) of the Access and Privacy Regulation)*

Access Refused (clause 12(1)(c))

Purpose: To inform an applicant that access is refused under clause 12(1)(c) of FIPPA.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

> *[describe the records requested]*.

Access to these records is refused, as the information in these records falls within the following exceptions to disclosure in *The Freedom of Information and Protection of Privacy Act*.

> *[Identify the specific exception provisions relied on, quote the wording of the exception provisions or attach copies of them, and explain why they apply.]*

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision to the Manitoba Ombudsman. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

Sincerely,

[Name]
Access and Privacy Officer

Refusal to Confirm or Deny the Existence of a Record (subsection 12(2))

Purpose:	To respond to an applicant where it is appropriate to refuse to confirm or deny the existence of a record under subsection 12(2) of FIPPA.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

> *[describe the records requested]*.

Under subsection 12(2) of FIPPA, we are refusing to confirm or deny the existence of the records you have requested, and your request for access is refused. Subsection 12(2) of the *Act* states:

> **12(2)** Despite clause (1)(c), the head of a public body may, in a response, refuse to confirm or deny the existence of
>
> (a) a record containing information described in section 24 or 25; or
>
> (b) a record containing personal information about a third party if disclosing the existence of the record would be an unreasonable invasion of the third party's privacy.

If the requested records existed, the information in them would fall within the exceptions to disclosure in section 24 (Disclosure harmful to individuals or public safety), section 25 (Disclosure harmful to law enforcement or legal proceedings) or section 17 (Disclosure harmful to a third party's privacy) of *The Freedom of Information and Protection of Privacy Act* and access would be refused. A copy of sections 17, 24 and 25 of the *Act* is enclosed.

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision to the Manitoba Ombudsman. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

Sincerely,

[Name]
Access and Privacy Officer

Refusal of a Repetitive or Incomprehensible Request (Section 13)

Purpose: To inform an applicant that access is refused under section 13 of FIPPA asthe request is repetitive or incomprehensible, the information has already been provided to the applicant, or the information is publicly available.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

■ **Option 1: Repetitive Request**

We have determined that this request is a repetition of requests for access that you have made recently. *[Summarize previous requests]*

Consequently, we are refusing to grant access to the records you have requested under subsection 13(1) of *The Freedom of Information and Protection of Privacy Act*.

■ **Option 2: Incomprehensible Request**

We are unable to understand your request for access or to determine what records you are requesting, although we have attempted to clarify your request by *[specify attempts made to clarify request, etc.]*.

Consequently, we are refusing to grant access to the records you have requested

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under subsection 13(1) of *The Freedom of Information and Protection of Privacy Act*

■ **Option 3: Information Already Provided to the Applicant**

As we already have provided the requested information to you on *[date]*, we are refusing further access under subsection 13(1) of *The Freedom of Information and Protection of Privacy Act*.

■ **Option 4: Information Publicly Available**

The information that you have requested is available to the public and it is not necessary to make an application under *The Freedom of Information and Protection of Privacy Act* for it. To make arrangements to obtain this information, please contact *[name and telephone number]*.

Subsection 13(1) of the *Act* provides:

> **13(1)** A head of a public body may refuse to give access to a record or part of a record if the request is repetitive or incomprehensible or is for information already provided to the applicant or that is publicly available.

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision to the Manitoba Ombudsman. You have 60 days from the receipt of this notice to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

Sincerely,

[Name]
Access and Privacy Officer

Notice that Information Has Become Publicly Available (clause 32(2)(a))

Purpose: To notify an applicant that information previously refused under subsection 32(1) on the basis that it would be made available to the public within 90 days is now available, as required by clause 32(2)(a) of FIPPA.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

On *[date]*, we informed you that your request for access to information was refused because the information would be made available to the public in *[number of days not to exceed 90 days after the applicant's request was received]*. We are pleased to inform you that the information is now available to the public.

■ **Option 1: Payment of Fees Required**

The following fee must be paid before you can obtain a copy of the records: *[set out fee payable]*. Payment is required by cheque or money order, payable to *[identify to whom payment is to be made]*.

■ **Option 2: Copy enclosed**

A copy of the requested records is enclosed.

■ **Option 3: Appointment to examine**

Please contact me at *[telephone number]* to make arrangements to examine the requested records.

If you have any questions, please call me at *[telephone number]*.

Sincerely,

[Name]
Access and Privacy Coordinator

Formal Notice to Third Party under Subsection 33(1): Privacy Interests may be Affected (clause 33(1)(a))

Purpose:	To provide formal notice to a third party, under clause 33(1)(a) of FIPPA, that an applicant has requested access to information that may result in an unreasonable invasion of the third party's privacy where the public body is considering giving access. This notice does not take the place of consultations with an affected third party. It is required where the public body is considering giving access to third party information. As the procedures in sections 33 and 34 of FIPPA are new, consultation with legal counsel is recommended.

[Date]
[Third Party's Name and Address]

Dear *[Third Party's Name]*:

Re: Request for access to information under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

[Name of local public body] has received a request under *The Freedom of Information and Protection of Privacy Act* from an applicant for access to records. On reviewing these records, it appears that they may contain personal information about you which, if disclosed might result in an unreasonable invasion of your privacy.

Subsection 33(1) of the *Act* requires that, before making a decision to give access to these records, we must notify you of this request and give you an opportunity to consent to the disclosure of this information or to make written representations to us explaining why the information should not be disclosed.

Section 17 of the *Act* states that *[name of local public body]* must refuse to disclose personal information about you to the applicant if it is determined that the disclosure would be an unreasonable invasion of your privacy. We do not currently have enough information to assess whether disclosure of the requested information would result in an unreasonable invasion of your privacy.

■ **Option 1:**

Enclosed is a copy of *[the record requested/the part of the record requested]* which contains the information about you.

■ **Option 2:**

The following is a description of the requested records and the information about you in these records:

> *[describe requested records and the information which might be personal information about the third party falling under section 17 of the Act]*.

A copy of the definition of "personal information" in section 1 of the *Act* and a copy of section 17 of the *Act* (Disclosure harmful to a third party's privacy) are also enclosed to assist you in reviewing this information.

If you wish to consent to the disclosure of the requested records, please provide me with your consent in writing as soon as possible and no later than 20 days from the date of this letter.

If you wish to make representations as to why the requested records should not be disclosed, please provide me with your representations in writing as soon as possible and no later than 20 days from the date of this letter. Your representations as to why the records should not be disclosed should be based on the provisions of section 17 of the *Act*.

Subsection 34(2) of *The Freedom of Information and Protection of Privacy Act* requires that I give written notice of my decision respecting access, including reasons for my decision, to you and to the applicant. My decision must be made within 30 days after the date of this letter, whether I have received a response from you or not, unless I extend this time limit under subsection 34(3) of the *Act*.

Please contact *[Access and Privacy Coordinator]* at *[telephone number]* if you have any questions.

Sincerely,

[Name]
Access and Privacy Officer

Formal Notice to Third Party under Subsection 33(1): Business Interests may be Affected (clause 33(1)(b))

Purpose: To provide formal notice to a third party, under clause 33(1)(b) of FIPPA, that an applicant has requested access to information that may affect the third party's business interests described in subsections 18(1) or 18(2) where the public body is considering giving access. This notice does not take the place of consultations with an affected third party. It is required where the public body is considering giving access to third party information. As the procedures in sections 33 and 34 of FIPPA are new, consultation with legal counsel is recommended.

[Date]
[Third Party's Name and Address]

Dear *[Third Party's Name]*:

Re: Request for access to records under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

[Name of local public body] has received a request under *The Freedom of Information and Protection of Privacy Act* from an applicant for access to records. On reviewing these records, it appears that they may contain information which, if disclosed, might affect your business interests as described in subsection 18(1) or 18(2) of the *Act*.

Subsection 33(1) of the *Act* requires that, before making a decision to give access to these records, we must notify you of this request and give you an opportunity to consent to the disclosure of this information or to make written representations to us explaining why the information should not be disclosed.

Section 18 of the *Act* indicates that *[name of local public body]* must refuse to disclose information to the applicant if it is determined that the information falls within one of the exception to disclosure provisions in subsection 18(1) or 18(2) of the *Act*. We do not currently have enough information to assess whether any of these exception to disclosure provisions apply to the information requested by the applicant.

■ **Option 1:**

Enclosed is a copy of *[the record requested/the part of the record requested]* which contains the information in question.

■ **Option 2:**

The following is a description of the requested records and the information in question:

> *[describe requested records and the information which might fall under an exception to disclosure provision in subsection 18(1) or 18(2) of FIPPA].*

A copy of section 18 of the *Act* (Disclosure harmful to a third party's business interests) is also enclosed to assist you in reviewing this information.

If you wish to consent to the disclosure of this information, please provide me with your consent in writing as soon as possible and no later than 20 days from the date of this letter.

If you wish to make representations as to why the requested information should not be disclosed, please provide me with your representations in writing as soon as possible and no later than 20 days from the date of this letter. Your representations as to why the information should not be disclosed should be based on the provisions of section 18 of the*Act*.

Subsection 34(2) of *The Freedom of Information and Protection of Privacy Act* requires that I give written notice of my decision respecting access, including reasons for my decision, to you and to the applicant. My decision must be made within 30 days after the date of this letter, whether I have received a response from you or not, unless I extend the time period under subsection 34(3) of the *Act*.

Please contact *[Access and Privacy Coordinator]* at *[telephone number]* if you have any questions.

Sincerely,

[Name]
Access and Privacy Officer

Notice to Applicant of Third Party Notice under Subsection 33(1) (subsection 33(4))

Purpose:	To notify an applicant that formal notice has been given to a third party under subsection 33(1) of FIPPA and that the third party has the right to make representations respecting the disclosure of the requested records, as required by subsection 33(4) of FIPPA.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Your Request for Access under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, *[name of local public body]* received your request for access to the following records:

[describe the records requested].

The records you have requested may contain information, which, if disclosed, might *[invade the privacy of a third party/affect the interests of a third party as described in section 18 of The Freedom of Information and Protection of Privacy Act].*

As required by subsection 33(1) of *The Freedom of Information and Protection of Privacy Act*, we have given written notice to the third party that a request for access to these records has been made. Subsection 33(1) states:

> **33(1)** When the head of a public body is considering giving access to a record the disclosure of which might
>
> (a) result in an unreasonable invasion of a third party's privacy under section 17; or

> (b) affect a third party's interests described in subsection 18(1) or (2);
>
> the head shall, where practicable and as soon as practicable, give written notice to the third party in accordance with subsection (3).

A copy of *[section 17/section 18]* of the *Act* is enclosed for your information.

The required notice to the third party was dated and sent on *[date]*.

As required by subsection 33(3) of the *Act*, the third party has been given an opportunity to make representations to me explaining why the information should not be disclosed.

My decision respecting your request for access must be made within 30 days after the date the notice was given to the third party, unless I extend the 30 day time period under subsection 34(3) of the *Act*. Subsection 34(2) of *The Freedom of Information and Protection of Privacy Act* requires that I give written notice of my decision respecting your request for access, including reasons for my decision, to you and to the third party.

Please contact *[Access and Privacy Coordinator]* at *[telephone number]* if you have any questions.

Sincerely,

[Name]
Access and Privacy Officer

Notice to Third Party Regarding Decision to give Access where Third Party has Consented (subsection 34(2)

Purpose:	To notify a third party who, after receiving formal notice under subsection 33(1) of FIPPA, has consented to disclosure of the public body's decision to give access to the applicant, as required by subsection 34(2) of FIPPA.

[Date]
[Third party's Name and Address]

Dear *[Third Party's Name]*:

Re: Request for access to records under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]* I wrote to you advising that *[name of local public body]* had received a request under *The Freedom of Information and Protection of Privacy Act* from an applicant for access to the following records:

[describe records requested]

and that it appeared that the records may contain information which, if disclosed, might *[result in an unreasonable invasion of your privacy/affect your business interests as described in subsection 18(1) or 18(2) of the Act]*.

This is to confirm that you have consented to the disclosure of these records in your letter dated *[date]* and that I have decided to give the applicant access to these records by *[providing copies of them/allowing the applicant to examine the records]*.

Please contact *[Access and Privacy Coordinator]* at *[telephone number]* if you have any questions.

Sincerely,

[Name]
Access and Privacy Officer

Notice to Applicant of Decision to Give Access where Third Party has Consented (subsection 34(2))

Purpose:	To notify the applicant of a decision to give access under subsection 34(2) of FIPPA where a third party, who has been given formal notice under subsection 33(1) of FIPPA, has consented to the disclosure, as required by subsection 34(2) of FIPPA.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Request for access to records under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

I have now had an opportunity to consider your request under Part 2 of *The Freedom of Information and Protection of Privacy Act*, received on *[date]* by *[name of local public body]*, for access to the following records:

[describe records requested].

On *[date]*, I wrote to you advising that the records you requested may contain information the disclosure of which might *[unreasonably invade the privacy of a third party/affect the business interests of a third party]*. I also advised that the third party was being given an opportunity to make representations to me about disclosure of the records.

The third party has consented to the disclosure of the records and I have therefore decided to give you access to the records you requested.

■ **Option 1: Payment of Fees Required**

On *[date]* we sent you an Estimate of Costs respecting your request. As indicated in the letter which accompanied the Estimate of Costs, the fees set out in the Estimate must be paid before access can be provided. Payment is required by cheque or money order, payable to *[identify to whom payment is to be made]*.

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Option 2: Copy requested and records can be reproduced

As you requested a copy of these records, and as they can reasonably be reproduced, in accordance with clause 14(1)(a) of *The Freedom of Information and Protection of Privacy Act*, copies of the records *[are enclosed/will be provided on payment of the required fees]*.

Option 3: Applicant has requested to examine the record

As you have asked to examine these records, please contact *[Access and Privacy Coordinator]* at *[telephone number]* to make arrangements *[to pay the required fees and]* to examine the records.

Option 3: Applicant has requested a copy of records which cannot be reproduced

You have requested a copy of the records. However, they cannot reasonably be reproduced because *[explain why the records cannot be reproduced]*.

In accordance with clause 14(1)(b) of *The Freedom of Information and Protection of Privacy Act*, *[upon payment of the required fees]* you will be permitted to examine the records. Please contact *[Access and Privacy Coordinator]* at *[telephone number]* to make arrangements to examine the records.

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision to allow you to examine the records instead of providing copies of them to the Manitoba Ombudsman. You have 60 days from the receipt of this letter to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 – 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

If you have any questions, please contact *[Access and Privacy Coordinator]* at *[business address and telephone number]*.

Sincerely,

[Name]
Access and Privacy Officer

Notice to Third Party of Decision to give Access or Partial Access Without Consent (subsections 34(2) and 34(4))

Purpose: To notify a third party who has received formal notice under subsection 33(1) of FIPPA, of a decision to give access to the applicant although the third party has not consented, as required by subsection 34(2) of FIPPA.

[Date]
[Third party's Name and Address]

Dear *[Third Party's Name]*:

Re: Request for access to records under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, I wrote to you advising that *[name of local public body]* had received a request under *The Freedom of Information and Protection of Privacy Act* from an applicant for access to the following records:

[describe records requested]

and that it appeared that the records may contain information which, if disclosed, might *[result in an unreasonable invasion of your privacy/affect your business interests as described in subsection 18(1) or 18(2) of the Act]*.

■ **Option 1: Third Party Written Representations Received Objecting to Disclosure; Public Body Decides to Give Access to All or Part of the Records.**

Your written representations dated *[date]*, explaining why the information should not be disclosed, were received on *[date]*.

After considering your representations and all relevant circumstances, I have decided to give the applicant *[access in full/partial access]* to the records requested by *[providing copies of/allowing the applicant to examine]* the records *[which are accessible under the Act]*.

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[If partial access is to be given, describe the parts of the records that will be disclosed and the parts that will be withheld. Identify the specific exception provisions in FIPPA which are being relied on and quote the provisions or provide copies of them.]

■ **Option 2: No Response from Third Party; Public Body Decides to Give Access**

We have not received a reply to our letter, and you have not provided written representations explaining why the requested records should not be disclosed.

After considering all relevant circumstances, I have decided to give the applicant *[access in full/partial access]* to the records requested by *[providing copies of/allowing the applicant to examine]* the records *[which are accessible under the Act]*.

[If partial access is to be given, describe the parts of the records that will be disclosed and the parts that will be withheld. Identify the specific exception provisions in FIPPA which are being relied on and quote the provisions or provide copies of them.]

The reasons for my decision are *[as follows/set out in the attached document]*.

[Subsection 34(2) of FIPPA requires that the reasons for this decision be given to the third party and to the applicant. The reasons can be set out in the letter or attached as a separate document.]

Subsection 59(2) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision to the Manitoba Ombudsman. You have 21 days from the giving of this notice make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

If you do not make a complaint to the Ombudsman within 21 days, the applicant will be given access to the records as described above.

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■ **Option 3: If applicant will be given partial access.**

> The applicant also has the right under subsection 59(1) of the *Act* to make a complaint to the Manitoba Ombudsman about my decision to deny access to part of the records requested.

Please contact [*Access and Privacy Coordinator]* at *[telephone number]* if you have any questions.

Sincerely,

[Name]
Access and Privacy Officer

Notice to Applicant of Decision to Give Access or Partial Access Without Consent (subsection 34(2) and 34(4))

Purpose: To notify the applicant of a decision to give access or partial access under subsection 34(2) of FIPPA where a third party who has received formal notice under subsection 33(1) of FIPPA has not consented, and to advise the applicant of the third party's right to complain to the Ombudsman under subsection 34(4). Note that access cannot be given until 21 days after the notice has been given to the third party, to allow the third party time to complain to the Ombudsman.

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Request for access to records under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

I have now had an opportunity to consider your request under *The Freedom of Information and Protection of Privacy Act*, received on *[date]* by *[name of local public body]*, for access to the following records:

> *[describe records requested]*.

On *[date]*, I wrote to you advising that the records you requested may contain information the disclosure of which might *[unreasonably invade the privacy of a third party/affect the business interests of a third party under subsection 18(1) or 18(2) of the Act]*. I also advised that the third party was being given an opportunity to make representations to me about disclosure of the records.

The third party *[submitted written representations on [date] objecting to the disclosure of the records to you/did not submit written representations]*.

After considering *[the representations of the third party and]* all relevant circumstances, I have decided to give you *[access in full/ partial access]* to the records you requested.

> *[If partial access is to be given, describe the parts of the records that will be disclosed and the parts that will be withheld. Identify the specific exception*

provisions in FIPPA which are being relied on and quote the provisions or provide copies of them.]

The reasons for my decision are *[as follows/set out in the attached document]*.

[Subsection 34(2) of FIPPA requires that the reasons for this decision be given to the third party and to the applicant. The reasons can be set out in the letter or attached as a separate document.]

■ **Option 1: Insert where partial access is given**

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about my decision to give you partial access to the records requested to the Manitoba Ombudsman. You have 21 days from the giving of this notice to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

The third party *[also]* has the right under subsection 59(2) of the Act to make a complaint to the Manitoba Ombudsman about my decision. If the third party does not make a complaint within 21 days, we will give you access to those records which are accessible as described above on *[date]*.

[If the third party does not make a complaint to the Ombudsman, after 21 days send a modified version of Sample Letter 7(Access Granted) or Sample Letter 9 (Access Partially Granted), whichever is applicable]

Please contact *[Access and Privacy Coordinator]* at *[telephone number]* if you have any questions.

Sincerely,

[Name]
Access and Privacy Officer

Notice to Third Party of Decision to Refuse Access (subsection 34(2) and 34(5))

Purpose:	To notify a third party of a decision to refuse to give access to the applicant where the third party has received formal notice under subsection 33(1) of FIPPA, as required by subsection 34(2) of FIPPA, and to notify the third party of the applicant's right to complain to the Ombudsman as required by subsection 34(5).

[Date]
[Third Party's Name and Address]

Dear *[Third Party's Name]*:

Re: Request for access to records under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

On *[date]*, I wrote to you advising that *[name of local public body]* had received a request under *The Freedom of Information and Protection of Privacy Act* from an applicant for access to the following records:

[describe records requested]

and that it appeared that the records may contain information which, if disclosed, might *[result in an unreasonable invasion of your privacy/affect your business interests as described in subsection 18(1) or 18(2) of the Act]*.

■ **Option 1: Written Representations Received Objecting to Disclosure; Public Body Decides to Refuse Access to the Records.**

Your written representations dated *[date]*, explaining why the records should not be disclosed, were received on *[date]*.

After considering your representations and all relevant circumstances, I have decided to refuse to give the applicant access to the records. The reasons for my decision are *[as follows/as set out in the attached document]*.

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[Subsection 34(2) of FIPPA requires that the reasons for this decision be given to the third party and to the applicant. The reasons can be set out in the letter or attached as a separate document. Identify the specific exception provisions in FIPPA which are being relied on, quote the provisions or provide copies of them and explain why they apply.*]*

■ **Option 2: No Response from Third Party; Public Body Refuses Access**

We have not received a reply to our letter, and you have not provided written representations explaining why the records should not be disclosed..

After considering all relevant circumstances, I have decided to refuse to give the applicant access to the requested records. The reasons for my decision are *[as follows/set out in the attached document]*.

[Subsection 34(2) of FIPPA requires that the reasons for this decision be given to the third party and to the applicant. The reasons can be set out in the letter or attached as a separate document. Identify the specific exception provisions in FIPPA which are being relied on, quote the provisions or provide copies of them and explain why they apply.]

The applicant has the right under subsection 59(1) of the Act to make a complaint to the Manitoba Ombudsman about my decision to refuse access to the records within 21 days after notice of my decision.

Please contact *[Access and Privacy Coordinator]* at *[telephone number]* if you have any questions.

Sincerely,

[Name]
Access and Privacy Officer

Notice to Applicant of Decision to Refuse to Access (subsections 34(2) and 34(5))

Purpose:	To notify the applicant of a decision to refuse to give access where a third party has received formal notice under subsection 33(1) of FIPPA, as required by subsection 34(2) of FIPPA, and to notify the applicant of his/her right to complain to the Ombudsman as required by subsection 34(5).

[Date]
[Applicant's Name and Address]

Dear *[Applicant's Name]*:

Re: Request for access to records under *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

I have now had an opportunity to consider your request submitted on *[date]* to *[name of local public body]* under *The Freedom of Information and Protection of Privacy Act* for access to the following records:

[describe records requested].

On *[date]*, I wrote to you advising that the records you requested may contain information the disclosure of which might *[unreasonably invade the privacy of a third party/affect the business interests of a third party under subsection 18(1) or 18(2) of the Act]*. I also advised that the third party was being given an opportunity to make representations to me about disclosure of the records.

The third party *[submitted written representations on [date] objecting to the disclosure of these records to you/did not submit written representations]*.

After considering *[the representations of the third party and]* all relevant circumstances, I have decided to refuse to give you access to these records.

The reasons for my decision are *[as follows/set out in the attached document]*.

[Subsection 34(2) of FIPPA requires that the reasons for this decision be given to

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the third party and to the applicant. The reasons can be set out in the letter or attached as a separate document. Identify the specific exception provisions in FIPPA which are being relied on, quote the provisions or provide copies of them and explain why they apply.]

Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision to the Manitoba Ombudsman. You have 21 days from the giving of this notice to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

Please contact *[Access and Privacy Coordinator]* at *[telephone number]* if you have any questions.

Sincerely,

[Name]
Access and Privacy Officer

Receipt of Request to Correct Personal Information (Section 39)

Purpose: To acknowledge receipt of an applicant's request to correct his/her personal information under section 39 of FIPPA. Note that the formal process under section 39 only applies to an applicant who has been given access to a record containing his or her personal information under Part 2 of FIPPA.

[Date]
[Applicant's Name and Address]

Dear [*Applicant's Name]*:

Re: Your request for correction of your personal information under section 39 of *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

Your request for correction of your personal information was received by *[name of local public body]* on *[date]*.

We are required to respond to your request within 30 days after receiving it, unless we notify you that we are extending the time period under subsection 39(4) of *The Freedom of Information and Protection of Privacy Act*.

If you have any questions, please write to me or call me at *[telephone number]*.

Sincerely,

[Name]
[Access and Privacy Officer]

Notice to Applicant of Decision respecting Correction (subsection 39(3))

Purpose: To notify an applicant whether or not a requested correction to personal information will be made under section 39 of FIPPA, as required by subsection 39(3).

[Date]
[Applicant's Name and Address]

Dear *[Applicant Name]*:

Re: Your request for correction of personal information under section 39 of *The Freedom of Information and Protection of Privacy Act*: *[Our File Number]*

Your request for correction of your personal information was received by *[name of local public body]* on *[date]*.

■ **Option 1: Correction Made**

Your records have been corrected as you requested. In particular, *[the following corrections have been made/a copy of the records as corrected is attached]*.

[List records and corrections to records or attach copies.]

■ **Option 2: Correction Refused**

We are unable to make the correction that you requested for the following reasons.

[Set out reasons for decision to refuse to correct the records.]

However, as required by clause 39(3)(b) of *The Freedom of Information and Protection of Privacy Act*, your request for correction of the information has been added to the record containing your personal information. A copy of section 39 of the *Act* is enclosed for your information.

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Subsection 59(1) of *The Freedom of Information and Protection of Privacy Act* provides that you may make a complaint about this decision to the Manitoba Ombudsman. You have 60 days from the receipt of this notice of our decision to refuse to correct your personal information to make a complaint on the prescribed form to:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg MB R3C 3X1
982-9130
1-800-665-0531

If you have any questions, please write to or call me at *[telephone number]*.

Sincerely,

[Name]
[Access and Privacy Officer]

Notice to Other Public Bodies respecting Correction (subsection 39(5))

Purpose:	To notify other public bodies who have received the personal information of a correction to personal information or of a request to correct personal information, as required by subsection 39(5) of FIPPA.

[Date]
[Name and Address of Public Body]

Dear *[Name of Official]:*

Re: Request for Correction of Personal Information under Section 39 of *The Freedom of Information and Protection of Privacy Act*

On *[date]*, we received a request under section 39 of *The Freedom of Information and Protection of Privacy Act* for correction of personal information from *[name of applicant]*. Our records indicate that this personal information was disclosed to you during the year prior to this request being made.

■ **Option 1: Personal Information Corrected**

We have agreed to correct the personal information, and I am enclosing a copy of the corrected information. We request that you make this correction to your records of this information as required by subsection 39(6) of *The Freedom of Information and Protection of Privacy Act*,

■ **Option 2: Personal Information Not Corrected**

We have refused to correct the personal information.

In accordance with subsection 39(5) of *The Freedom of Information and Protection of Privacy Act*, enclosed is a copy of the request for correction of personal information from the applicant, which has been added to our records of the information. We request that you add this request for correction of personal information to your records of the information as required by subsection 39(6) of the *Act*.

Sincerely,

[Name]
[Access and Privacy Officer]

Personal Information Collection Notification Statement

Purpose:	To advise individuals of the authority and purpose for the collection of personal information and to give them the name of an official whom they may contact for further information, as required under FIPPA.

The following statement provides all the information that is required under FIPPA to be provided when collecting personal information directly from individuals.

It should be added to all application forms on which personal information is collected directly from the individual that the information is about.

> This personal information is being collected under the authority *of [identify the Act, regulation, program or activity]* and will be used for *[state the purposes of which the information is being collected].*
>
> It is protected by the Protection of Privacy provisions of The Freedom of Information and Protection of Privacy Act. If you have any questions about the collection, contact *[provide title, business address and telephone number of responsible official or employee].*

CHAPTER F175

THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

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LOI SUR L'ACCÈS À L'INFORMATION ET LA PROTECTION DE LA VIE PRIVÉE

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CHAPTER F175

THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

(Assented to June 28, 1997)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

PART 1

INTRODUCTORY PROVISIONS

Definitions
1 In this Act,

"**applicant**" means a person who makes a request for access to a record under section 8; (« auteur de la demande »)

"**Cabinet**" means the Executive Council appointed under *The Executive Government Organization Act*, and includes a committee of the Executive Council; (« Cabinet »)

CHAPITRE F175

LOI SUR L'ACCÈS À L'INFORMATION ET LA PROTECTION DE LA VIE PRIVÉE

(Date de sanction : 28 juin 1997)

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative du Manitoba, édicte :

PARTIE 1

DISPOSITIONS INTRODUCTIVES

Définitions
1 Les définitions qui suivent s'appliquent à la présente loi.

« **auteur de la demande** » Personne qui demande la communication d'un document en vertu de l'article 8. ("applicant")

« **Cabinet** » Le Conseil exécutif nommé en application de la *Loi sur l'organisation du gouvernement*. La présente définition vise notamment les comités du Conseil exécutif. ("Cabinet")

"court", for the purpose of an appeal under section 67 or 68, means the Court of Queen's Bench; (« tribunal »)

"department" means a department, branch or office of the executive government of the province; (« ministère »)

"educational body" means

(a) a school division or school district established under *The Public Schools Act*,

(b) The University of Manitoba,

(c) The University of Winnipeg,

(c.1) Brandon University,

(d) a college established under *The Colleges Act*, and

(e) any other body designated as an educational body in the regulations; (« organisme d'éducation »)

"employee", in relation to a public body, includes a person retained under a contract to perform services for the public body; (« employé »)

"enactment" means an Act or regulation; (« texte »)

"government agency" means

(a) any board, commission, association, agency, or similar body, whether incorporated or unincorporated, all the members of which, or all the members of the board of management or board of directors or governing board of which, are appointed by an Act of the Legislature or by the Lieutenant Governor in Council, and

(b) any other body designated as a government agency in the regulations; (« organisme gouvernemental »)

"head", in relation to a public body, means

(a) in the case of a department, the minister who presides over it,

« Comité d'évaluation » Le Comité d'évaluation que constitue le ministre en application de l'article 77. ("review committee")

« document » Document qui reproduit des renseignements sous une forme quelconque, y compris des renseignements écrits, photographiés, enregistrés ou stockés de quelque manière que ce soit sur tout support de données ou par des moyens graphiques, électroniques, mécaniques ou autres. La présente définition exclut les logiciels électroniques et les mécanismes qui produisent des documents. ("record")

« document judiciaire » Document contenant des renseignements ayant trait à un juge, à un conseiller-maître, à un magistrat ou à un juge de paix, y compris des renseignements relatifs :

a) au programme des juges et au calendrier des audiences et des procès;

b) au contenu des programmes de formation judiciaire;

c) à des statistiques touchant l'activité judiciaire établies par ou pour un juge;

d) à des directives judiciaires;

e) aux documents de la Commission d'enquête sur la magistrature, du Conseil de la magistrature établi sous le régime de la *Loi sur la Cour provinciale* ou du Conseil de la magistrature des conseillers-maîtres établi sous le régime de la *Loi sur la Cour du Banc de la Reine*. ("judicial administration record")

« employé » Est assimilée à un employé la personne qui conclut un contrat de prestation de services avec un organisme public. ("employee")

« exécution de la loi » Mesures prises aux fins de l'exécution d'un texte, y compris :

a) le maintien de l'ordre;

(b) in the case of an incorporated government agency, its chief executive officer,

(c) in the case of an unincorporated government agency, the minister who is charged by the Lieutenant Governor in Council with the administration of the Act under which the agency is established or who is otherwise responsible for the agency, and

(d) in any other case, the person or group of persons designated under section 80 or the regulations as the head of the public body; (« responsable d'organisme public »)

"health care body" means

(a) a hospital designated under *The Health Services Insurance Act;*

(b) a regional health authority established under *The Regional Health Authorities Act*,

(c) the board of a health and social services district established under *The District Health and Social Services Act*,

(d) the board of a hospital district established under *The Health Services Act*, and

(e) any other body designated as a health care body in the regulations; (« organisme de soins de santé »)

"judicial administration record" means a record containing information relating to a judge, master, magistrate or justice of the peace, including information relating to

(a) the scheduling of judges, hearings and trials,

(b) the content of judicial training programs,

(c) statistics of judicial activity prepared by or for a judge,

(d) a judicial directive, and

b) les enquêtes ou les inspections qui aboutissent ou pourraient aboutir à l'imposition d'une peine ou d'une sanction ou qui sont effectuées aux fins de l'exécution d'un texte;

c) les instances qui aboutissent ou pourraient aboutir à l'imposition d'une peine ou d'une sanction ou qui sont engagées aux fins de l'exécution d'un texte. ("law enforcement")

« fichier de renseignements personnels » Ensemble de renseignements personnels systématisés et récupérables d'après le nom d'un particulier ou d'après un numéro ou symbole ou toute autre indication identificatrice qui lui est propre. ("personal information bank")

« fonctionnaire de l'Assemblée législative » Le président de l'Assemblée législative, le greffier de l'Assemblée législative, le directeur général des élections, l'ombudsman, le protecteur des enfants et le vérificateur provincial. ("officer of the Legislative Assembly")

« ministère » Ministère, direction ou bureau du gouvernement de la province. ("department")

« ministre » Membre du Cabinet. ("minister")

« ministre responsable » Le ministre chargé par le lieutenant-gouverneur en conseil de l'application de la présente loi. ("responsible minister")

« ombudsman » L'ombudsman nommé sous le régime de la *Loi sur l'ombudsman*. ("Ombudsman")

« organisme d'administration locale »

a) La ville de Winnipeg;

b) municipalité;

c) district d'administration locale;

d) comité local, conseil communautaire ou conseil de communauté constituée que vise la *Loi sur les Affaires du Nord*;

(e) any record of the Judicial Inquiry Board, the Judicial Council established under *The Provincial Court Act* or the Masters Judicial Council established under *The Court of Queen's Bench Act*; (« document judiciaire »)

"law enforcement" means any action taken for the purpose of enforcing an enactment, including

(a) policing,

(b) investigations or inspections that lead or could lead to a penalty or sanction being imposed, or that are otherwise conducted for the purpose of enforcing an enactment, and

(c) proceedings that lead or could lead to a penalty or sanction being imposed, or that are otherwise conducted for the purpose of enforcing an enactment; (« exécution de la loi »)

"local government body" means

(a) The City of Winnipeg,

(b) a municipality,

(c) a local government district,

(d) a local committee, community council or incorporated community council under *The Northern Affairs Act*,

(e) a planning district established under *The Planning Act*,

(f) a conservation district established under *The Conservation Districts Act*,

(g) any other body designated as a local government body in the regulations; (« organisme d'administration locale »)

"local public body" means

(a) an educational body,

(b) a health care body, and

(c) a local government body; (« organisme public local »)

e) district d'aménagement établi sous le régime de la *Loi sur l'aménagement du territoire*;

f) district de conservation établi sous le régime de la *Loi sur les districts de conservation*;

g) tout autre organisme d'administration locale désigné comme tel dans les règlements. ("local government body")

« organisme d'éducation »

a) Division ou district scolaire établi sous le régime de la *Loi sur les écoles publiques*;

b) l'Université du Manitoba;

c) l'Université de Winnipeg;

c.1) l'Université de Brandon;

d) collège fondé sous le régime de la *Loi sur les collèges*;

e) tout autre organisme d'éducation désigné comme tel dans les règlements. ("educational body")

« organisme de soins de santé »

a) Hôpital désigné sous le régime de la *Loi sur l'assurance-maladie*;

b) office régional de la santé établi sous le régime de la *Loi sur les offices régionaux de la santé*;

c) conseil d'un district de services sociaux et de santé établi sous le régime de la *Loi sur les districts de services sociaux et de santé*;

d) conseil d'un district hospitalier établi sous le régime de la *Loi sur les services de santé*;

e) tout autre organisme de soins de santé désigné comme tel dans les règlements. ("health care body")

"minister" means a member of Cabinet; (« ministre »)

"officer of the Legislative Assembly" means the Speaker of the Legislative Assembly, the Clerk of the Legislative Assembly, the Chief Electoral Officer, the Ombudsman, the Children's Advocate and the Provincial Auditor; (« fonctionnaire de l'Assemblée législative »)

"Ombudsman" means the Ombudsman appointed under *The Ombudsman Act;* (« ombudsman »)

"personal health information" means recorded information about an identifiable individual that relates to

(a) the individual's health, or health care history, including genetic information about the individual,

(b) the provision of health care to the individual, or

(c) payment for health care provided to the individual,

and includes

(d) the PHIN as defined in *The Personal Health Information Act* and any other identifying number, symbol or particular assigned to an individual, and

(e) any identifying information about the individual that is collected in the course of, and is incidental to, the provision of health care or payment for health care; (« renseignements médicaux personnels »)

"personal information" means recorded information about an identifiable individual, including

(a) the individual's name,

(b) the individual's home address, or home telephone, facsimile or e-mail number,

« organisme gouvernemental »

a) Conseil, commission, association, bureau ou autre entité semblable, constitué ou non en personne morale, dont tous les membres ou tous ceux du conseil de direction ou d'administration sont nommés par une loi de l'Assemblée législative ou par le lieutenant-gouverneur en conseil;

b) tout autre organisme gouvernemental désigné comme tel dans les règlements. ("government agency")

« organisme public »

a) Ministère;

b) organisme gouvernemental;

c) Bureau du Conseil exécutif;

d) bureau d'un ministre;

e) organisme public local.

La présente définition exclut :

f) le bureau des députés à l'Assemblée législative qui ne sont pas ministres;

g) le bureau des fonctionnaires de l'Assemblée législative;

h) la Cour d'appel, la Cour du Banc de la Reine et la Cour provinciale. ("public body")

« organisme public local »

a) Organisme d'éducation;

b) organisme de soins de santé;

c) organisme d'administration locale. ("local public body")

« registre public » Registre de renseignements désignés dans les règlements, que tient un organisme public et qui est à la disposition du grand public. ("public registry")

(c) information about the individual's age, sex, sexual orientation, marital or family status,

(d) information about the individual's ancestry, race, colour, nationality, or national or ethnic origin,

(e) information about the individual's religion or creed, or religious belief, association or activity,

(f) personal health information about the individual,

(g) the individual's blood type, fingerprints or other hereditary characteristics,

(h) information about the individual's political belief, association or activity,

(i) information about the individual's education, employment or occupation, or educational, employment or occupational history,

(j) information about the individual's source of income or financial circumstances, activities or history,

(k) information about the individual's criminal history, including regulatory offences,

(l) the individual's own personal views or opinions, except if they are about another person,

(m) the views or opinions expressed about the individual by another person, and

(n) an identifying number, symbol or other particular assigned to the individual; (« renseignements personnels »)

"personal information bank" means a collection of personal information that is organized or retrievable by the name of an individual or by an identifying number, symbol or other particular assigned to an individual; (« fichier de renseignements personnels »)

« renseignements médicaux personnels » Renseignements enregistrés concernant un particulier identifiable et ayant trait :

a) à sa santé ou à son dossier médical, y compris les renseignements d'ordre génétique le concernant;

b) aux soins de santé qui lui sont fournis;

c) au paiement des soins de santé qui lui sont fournis.

La présente définition vise notamment :

d) le NIMP, au sens de la *Loi sur les renseignements médicaux personnels*, et tout numéro ou symbole, ou toute autre indication identificatrice, qui est propre au particulier;

e) les renseignements identificateurs concernant le particulier qui sont recueillis à l'occasion de la fourniture de soins de santé ou du paiement de ces soins et qui découlent de ces opérations. ("personal health information")

« renseignements personnels » Renseignements consignés concernant un particulier identifiable, notamment :

a) son nom;

b) l'adresse ou le numéro de téléphone, de télécopieur ou de courrier électronique de sa résidence;

c) son âge, son sexe, son orientation sexuelle et son état matrimonial ou familial;

d) son ascendance, sa race, sa couleur, sa nationalité et son origine nationale ou ethnique;

e) sa religion ou sa confession et sa croyance, son appartenance ou son activité religieuse;

f) les renseignements médicaux personnels le concernant;

"public body" means

(a) a department,

(b) a government agency,

(c) the Executive Council Office,

(d) the office of a minister, and

(e) a local public body,

but does not include

(f) the office of a Member of the Legislative Assembly who is not a minister,

(g) the office of an officer of the Legislative Assembly, or

(h) The Court of Appeal, the Court of Queen's Bench or the Provincial Court; (« organisme public »)

"public registry" means a registry of information designated in the regulations that is maintained by a public body and is available to the general public; (« registre public »)

"record" means a record of information in any form, and includes information that is written, photographed, recorded or stored in any manner, on any storage medium or by any means including by graphic, electronic or mechanical means, but does not include electronic software or any mechanism that produces records; (« document »)

"responsible minister" means the minister charged by the Lieutenant Governor in Council with the administration of this Act; (« ministre responsable »)

"review committee" means the Privacy Assessment Review Committee established by the minister under section 77; (« Comité d'évaluation »)

g) son groupe sanguin, ses empreintes digitales ou ses traits héréditaires;

h) son allégeance, son appartenance ou son activité politique;

i) son éducation ou sa profession et ses antécédents scolaires ou professionnels;

j) sa source de revenu ou sa situation, ses activités ou ses antécédents financiers;

k) ses antécédents criminels, y compris les infractions aux règlements;

l) ses opinions personnelles, sauf si elles ont trait à autrui;

m) les opinions d'autrui sur lui;

n) tout numéro ou symbole, ou toute autre indication identificatrice, qui lui est propre. ("personal information")

« responsable d'organisme public »

a) Le ministre sous l'autorité de qui est placé un ministère;

b) le premier dirigeant d'un organisme gouvernemental constitué en personne morale;

c) le ministre qui est chargé par le lieutenant-gouverneur en conseil de l'application de la loi sous le régime de laquelle est établi un organisme gouvernemental non constitué en personne morale ou qui est normalement responsable de cet organisme;

d) la ou les personnes désignées en application de l'article 80 ou des règlements à titre de responsable d'un organisme public autre que ceux mentionnés aux alinéas a) à c). ("head")

« texte » Loi ou règlement. ("enactment")

"third party" means a person, group of persons or an organization other than the applicant or a public body. (« tiers »)

S.M. 1998, c. 6, s. 13; S.M. 1999, c. 18, s. 13; S.M. 1999, c. 34, s. 7.

Purposes of this Act

2 The purposes of this Act are

(a) to allow any person a right of access to records in the custody or under the control of public bodies, subject to the limited and specific exceptions set out in this Act;

(b) to allow individuals a right of access to records containing personal information about themselves in the custody or under the control of public bodies, subject to the limited and specific exceptions set out in this Act;

(c) to allow individuals a right to request corrections to records containing personal information about themselves in the custody or under the control of public bodies;

(d) to control the manner in which public bodies may collect personal information from individuals and to protect individuals against unauthorized use or disclosure of personal information by public bodies; and

(e) to provide for an independent review of the decisions of public bodies under this Act.

Scope of this Act

3 This Act

(a) is in addition to and does not replace existing procedures for access to records or information normally available to the public, including any requirement to pay fees;

(b) does not prohibit the transfer, storage or destruction of any record in accordance with any other enactment of Manitoba or Canada or a by-law or resolution of a government agency or local public body;

« **tiers** » Personne, groupement ou organisation autre que l'auteur de la demande ou qu'un organisme public. ("third party")

« **tribunal** » La Cour du Banc de la Reine, aux fins de l'interjection de l'appel prévu à l'article 67 ou 68. ("court")

L.M. 1998, c. 6, art. 13; L.M. 1999, c. 18, art. 13; L.M. 1999, c. 34, art. 7.

Objets de la Loi

2 La présente loi a pour objets :

a) de donner aux personnes un droit d'accès aux documents qui relèvent des organismes publics, sous réserve des exceptions limitées et précises qu'elle prévoit;

b) de donner aux particuliers un droit d'accès aux documents qui contiennent des renseignements personnels les concernant et qui relèvent des organismes publics, sous réserve des exceptions limitées et précises qu'elle prévoit;

c) de donner aux particuliers le droit de demander la correction des documents qui contiennent des renseignements personnels les concernant et qui relèvent des organismes publics;

d) de régir le mode selon lequel les organismes publics peuvent recueillir des renseignements personnels auprès de particuliers et de protéger les particuliers contre l'utilisation ou la communication non autorisée de ces renseignements par ces organismes;

e) de prévoir l'exercice de recours indépendants à l'égard des décisions prises par les organismes publics sous son régime.

Champ d'application

3 La présente loi :

a) vise à compléter les modalités d'accès aux renseignements ou aux documents qui sont normalement à la disposition du public, y compris l'obligation de payer des droits;

b) n'interdit pas la transmission, le stockage ou la destruction de documents en conformité avec tout autre texte provincial ou fédéral ou un règlement, un règlement administratif ou une résolution d'un organisme gouvernemental ou d'un organisme public local;

(c) does not limit the information otherwise available by law to a party to legal proceedings; and

(d) does not affect the power of a court or tribunal to compel a witness to testify or to compel the production of documents.

Records to which this Act applies

4 This Act applies to all records in the custody or under the control of a public body but does not apply to

(a) information in a court record, a record of a judge, master, magistrate or justice of the peace, a judicial administration record or a record relating to support services provided to a judge or judicial officer of a court;

(b) a note made by or for, or a communication or draft decision of, a person who is acting in a judicial or quasi-judicial capacity;

(c) a record of a Member of the Legislative Assembly who is not a minister;

(d) a personal or constituency record of a minister;

(e) a record made by or for an officer of the Legislative Assembly;

(f) a record made by or for an elected official of a local public body relating to constituency matters;

(g) teaching materials or research information of an employee of an educational institution;

(h) a question that is to be used on an examination or test;

c) ne restreint pas les renseignements qui, en vertu de la loi, sont normalement à la disposition des parties à une instance;

d) ne porte pas atteinte au pouvoir des tribunaux judiciaires ou administratifs de contraindre des témoins à déposer ou de contraindre à la production de pièces.

Documents visés

4 La présente loi s'applique à tous les documents qui relèvent d'un organisme public; toutefois, elle ne s'applique pas :

a) aux renseignements figurant dans les documents judiciaires, aux documents des juges, des conseillers-maîtres, des magistrats ou des juges de paix, aux documents concernant l'administration judiciaire ni aux documents ayant trait aux services de soutien fournis aux juges ou aux auxiliaires de la justice des tribunaux;

b) aux notes rédigées par ou pour des personnes exerçant des fonctions judiciaires ou quasi judiciaires ni aux communications ou aux projets de décision de ces personnes;

c) aux documents des députés à l'Assemblée législative qui ne sont pas ministres;

d) aux documents personnels ou de circonscription électorale des ministres;

e) aux documents établis par ou pour les fonctionnaires de l'Assemblée législative;

f) aux documents préparés par ou pour les représentants élus des organismes publics locaux relativement aux affaires de division, de région ou de quartier;

g) au matériel pédagogique des employés des établissements d'enseignement ni aux renseignements que ces employés ont obtenus dans le cadre de recherches;

h) aux questions devant être utilisées dans le cadre d'examens ou d'épreuves;

(i) a record relating to a prosecution or an inquest under *The Fatality Inquiries Act* if all proceedings concerning the prosecution or inquest have not been completed;

(j) records acquired by the Provincial Archives of Manitoba or the archives of a public body from a person or entity other than a public body; and

(k) a record originating from a credit union that is in the custody or under the control of the Credit Union Deposit Guarantee Corporation under *The Credit Unions and Caisses Populaires Act*.

Relationship to other Acts

5(1) The head of a public body shall refuse to give access to or disclose information under this Act if the disclosure is prohibited or restricted by another enactment of Manitoba.

Conflict with another Act

5(2) If a provision of this Act is inconsistent or in conflict with a provision of another enactment, the provision of this Act prevails unless the other enactment expressly provides that the other enactment applies despite this Act.

Sunset provision

5(3) Three years after section 7 comes into force, subsection (1) of this section is repealed and subsection (2) of this section comes into force.

i) aux documents relatifs à des poursuites ou à des enquêtes visées par la *Loi sur les enquêtes médico-légales*, si les procédures concernant les poursuites ou les enquêtes ne sont pas toutes terminées;

j) aux documents acquis par les Archives provinciales du Manitoba ou les archives d'organismes publics auprès de personnes ou d'entités autres que des organismes publics;

k) aux documents qui émanent de caisses populaires et qui relèvent de la Société d'assurance-dépôts des caisses populaires visée par la *Loi sur les caisses populaires et les credit unions*.

Communication interdite par une autre loi

5(1) Le responsable d'un organisme public refuse de donner accès à des renseignements que vise la présente loi ou de les communiquer si leur communication est interdite ou restreinte par un autre texte provincial.

Incompatibilité

5(2) Les dispositions de la présente loi l'emportent sur les dispositions incompatibles de tout autre texte à moins que l'autre texte ne prévoie expressément le contraire.

Disposition de temporarisation

5(3) Le paragraphe (1) est abrogé et le paragraphe (2) entre en vigueur trois ans après l'entrée en vigueur de l'article 7.

PART 2

ACCESS TO INFORMATION

DIVISION 1

APPLICATION OF THIS PART

Part does not apply to individual's personal health information
6 An individual seeking access to a record containing his or her own personal health information must request access under *The Personal Health Information Act*, and this Part does not apply.

DIVISION 2

OBTAINING ACCESS TO RECORDS

Right of access
7(1) Subject to this Act, an applicant has a right of access to any record in the custody or under the control of a public body, including a record containing personal information about the applicant.

Severing information
7(2) The right of access to a record does not extend to information that is excepted from disclosure under Division 3 or 4 of this Part, but if that information can reasonably be severed from the record, an applicant has a right of access to the remainder of the record.

Fee
7(3) The right of access to a record is subject to the payment of any fee required by the regulations.

How to make a request
8(1) To obtain access to a record, a person must make a request to the public body that the person believes has custody or control of the record.

PARTIE 2

ACCÈS À L'INFORMATION

SECTION 1

APPLICATION DE LA PRÉSENTE PARTIE

Application de la présente partie
6 Le particulier qui cherche à obtenir l'accès à des documents contenant ses propres renseignements médicaux personnels présente une demande de communication sous le régime de la *Loi sur les renseignements médicaux personnels*, et la présente partie ne s'applique pas.

SECTION 2

ACCÈS AUX DOCUMENTS

Droit d'accès
7(1) Sous réserve des autres dispositions de la présente loi, l'auteur de la demande a un droit d'accès aux documents relevant d'un organisme public, y compris les documents contenant des renseignements personnels le concernant.

Prélèvements
7(2) Le droit d'accès aux documents ne s'étend pas aux renseignements faisant l'objet d'une exception prévue à la section 3 ou 4 de la présente partie; toutefois, si ces renseignements peuvent être prélevés d'un document sans poser de problèmes sérieux, l'auteur de la demande a un droit d'accès au reste du document.

Droits
7(3) Le droit d'accès aux documents est assujetti au paiement de tout droit réglementaire.

Demande de communication
8(1) La personne qui désire se faire communiquer un document présente une demande à l'organisme public de qui relève le document selon elle.

Prescribed form

8(2) A request must be in the prescribed form and must provide enough detail to enable an experienced officer or employee of the public body to identify the record.

Oral request

8(3) An applicant may make an oral request for access to a record if the applicant

(a) has a limited ability to read or write English or French; or

(b) has a disability or condition that impairs his or her ability to make a written request.

Duty to assist applicant

9 The head of a public body shall make every reasonable effort to assist an applicant and to respond without delay, openly, accurately and completely.

Access to records in electronic form

10(1) If information requested is in an electronic form in the custody or under the control of a public body, the head of the public body shall produce a record for the applicant if

(a) it can be produced using the normal computer hardware and software and technical expertise of the public body; and

(b) producing it would not interfere unreasonably with the operations of the public body.

Creating a record in the form requested

10(2) If a record exists but is not in the form requested by the applicant, the head of the public body may create a record in the form requested if the head is of the opinion that it would be simpler or less costly for the public body to do so.

Formule réglementaire

8(2) La demande revêt la forme réglementaire et est rédigée en des termes suffisamment précis pour permettre à un fonctionnaire ou à un employé expérimenté de l'organisme public de trouver le document.

Demande orale

8(3) La demande de communication peut être présentée oralement si l'auteur de la demande :

a) a une capacité limitée de lire ou d'écrire en français ou en anglais;

b) a une incapacité ou une affection qui diminue sa capacité de présenter une demande écrite.

Obligation de prêter assistance

9 Le responsable d'un organisme public fait tous les efforts possibles pour prêter assistance à l'auteur de la demande et pour lui répondre sans délai de façon ouverte, précise et complète.

Accès aux documents sous forme électronique

10(1) Si les renseignements demandés se trouvent dans un document électronique relevant d'un organisme public, le responsable de l'organisme public produit le document pour l'auteur de la demande dans le cas où :

a) la production de ce document peut se faire à l'aide du matériel, du logiciel et des compétences techniques habituels de cet organisme;

b) le fait de le produire n'entraverait pas de façon sérieuse le fonctionnement de l'organisme public.

Création d'un document sous la forme demandée

10(2) Si un document existe mais ne se trouve pas sous la forme demandée, le responsable de l'organisme public peut créer le document sous la forme demandée s'il est d'avis que cette solution s'avère plus simple et moins coûteuse pour l'organisme public.

Time limit for responding

11(1) The head of a public body shall make every reasonable effort to respond to a request in writing within 30 days after receiving it unless

(a) the time limit for responding is extended under section 15; or

(b) the request has been transferred under section 16 to another public body.

Failure to respond

11(2) The failure of the head of a public body to respond to a request within the 30 day period or any extended period is to be treated as a decision to refuse access to the record.

Contents of response

12(1) In a response under section 11, the head of the public body shall inform the applicant

(a) whether access to the record or part of the record is granted or refused;

(b) if access to the record or part of the record is granted, where, when and how access will be given; and

(c) if access to the record or part of the record is refused,

(i) in the case of a record that does not exist or cannot be located, that the record does not exist or cannot be located,

(ii) in the case of a record that exists and can be located, the reasons for the refusal and the specific provision of this Act on which the refusal is based,

(iii) of the title and business telephone number of an officer or employee of the public body who can answer the applicant's questions about the refusal, and

(iv) that the applicant may make a complaint to the Ombudsman about the refusal.

Délai

11(1) Le responsable de l'organisme public s'efforce de répondre par écrit à la demande dans les 30 jours suivant sa réception, sauf si :

a) le délai est prorogé en vertu de l'article 15;

b) la demande a été transmise à un autre organisme public en vertu de l'article 16.

Présomption de refus

11(2) Le défaut de répondre à la demande dans le délai initial ou prorogé vaut décision de refus de communication du document.

Contenu de la réponse

12(1) La réponse visée par l'article 11 mentionne :

a) si la communication totale ou partielle du document est accordée ou refusée;

b) si la communication totale ou partielle du document est accordée, les modalités de la communication;

c) si la communication totale ou partielle du document est refusée :

(i) le fait que le document n'existe pas ou ne peut être retrouvé, le cas échéant,

(ii) dans le cas où le document existe et peut être retrouvé, les motifs du refus et la disposition précise de la présente loi sur laquelle il se fonde,

(iii) le titre et le numéro de téléphone au travail d'un cadre ou d'un employé de l'organisme public qui peut renseigner l'auteur de la demande au sujet du refus,

(iv) le droit de l'auteur de la demande de déposer une plainte auprès de l'ombudsman.

Refusal to confirm or deny existence of record

12(2) Despite clause (1)(c), the head of a public body may, in a response, refuse to confirm or deny the existence of

(a) a record containing information described in section 24 or 25; or

(b) a record containing personal information about a third party if disclosing the existence of the record would be an unreasonable invasion of the third party's privacy.

Repetitive or incomprehensible request

13(1) A head of a public body may refuse to give access to a record or a part of a record if the request is repetitive or incomprehensible or is for information already provided to the applicant or that is publicly available.

Notice

13(2) In the circumstances mentioned in subsection (1), the head shall state in the response given under section 11

(a) that the request is refused and the reason why;

(b) the reasons for the head's decision; and

(c) that the applicant may make a complaint to the Ombudsman about the refusal.

How access will be given

14(1) Subject to subsection 7(2), the right of access is met under this Part,

(a) if the applicant has asked for a copy and the record can reasonably be reproduced, by giving the applicant a copy of the record; or

(b) if the applicant has asked to examine a record or has asked for a copy of a record that cannot reasonably be reproduced, by permitting the applicant to examine the record or a part of it or by giving him or her access in accordance with the regulations.

Exception

12(2) Malgré l'alinéa (1)c), le responsable de l'organisme public peut, dans sa réponse, refuser de confirmer ou de nier l'existence :

a) d'un document contenant les renseignements mentionnés à l'article 24 ou 25;

b) d'un document contenant des renseignements personnels concernant un tiers dans le cas où la divulgation de l'existence du document constituerait une atteinte injustifiée à la vie privée du tiers.

Demande répétitive ou incompréhensible

13(1) Le responsable de l'organisme public peut refuser de donner communication totale ou partielle d'un document si la demande est répétitive ou incompréhensible ou a trait à des renseignements qui ont déjà été fournis à l'auteur de la demande ou qui sont à la disposition du public.

Avis

13(2) Dans les circonstances mentionnées au paragraphe (1), le responsable mentionne dans la réponse visée par l'article 11 :

a) que la demande est refusée et le motif sur lequel se fonde le refus;

b) les motifs sur lesquels il fonde sa décision;

c) le droit de l'auteur de la demande de déposer une plainte auprès de l'ombudsman au sujet du refus.

Modalités d'accès

14(1) Sous réserve du paragraphe 7(2), il est réputé être donné suite à la demande de communication sous le régime de la présente partie :

a) dans le cas où l'auteur de la demande a demandé une copie et que le document puisse être reproduit aisément, lorsqu'on lui en remet une copie;

b) dans le cas où l'auteur de la demande a demandé à examiner un document ou une copie d'un document qui ne peut être reproduit aisément, lorsqu'on lui permet d'examiner en tout ou en partie le document ou qu'on lui en donne communication en conformité avec les règlements.

Explanation
14(2) The head of a public body who gives access to a record may give the applicant any additional information that the head believes may be necessary to explain it.

Extending the time limit for responding
15(1) The head of a public body may extend the time for responding to a request for up to an additional 30 days, or for a longer period if the Ombudsman agrees, if

(a) the applicant does not give enough detail to enable the public body to identify a requested record;

(b) a large number of records is requested or must be searched, and responding within the time period set out in section 11 would interfere unreasonably with the operations of the public body;

(c) time is needed to consult with a third party or another public body before deciding whether or not to grant access to a record; or

(d) a third party makes a complaint under subsection 59(2).

Notice of extension to applicant
15(2) If the time is extended under subsection (1), the head of the public body shall send a written notice to the applicant setting out

(a) the reason for the extension;

(b) when a response can be expected; and

(c) that the applicant may make a complaint to the Ombudsman about the extension.

Éclaircissements
14(2) Le responsable de l'organisme public qui donne communication d'un document peut fournir à l'auteur de la demande les renseignements supplémentaires qui, selon lui, peuvent être nécessaires à sa compréhension.

Prorogation du délai
15(1) Le responsable de l'organisme public peut proroger le délai prévu pour répondre à une demande d'une période supplémentaire maximale de 30 jours ou de la période plus longue dont convient l'ombudsman dans les cas où :

a) la demande n'est pas rédigée en des termes suffisamment précis pour permettre à l'organisme public de trouver le document en question;

b) l'observation du délai prévu à l'article 11 entraverait de façon sérieuse le fonctionnement de l'organisme public en raison soit du grand nombre de documents demandés, soit de l'ampleur des recherches à effectuer pour donner suite à la demande;

c) un délai est nécessaire afin de lui permettre de consulter un tiers ou un autre organisme public avant de décider s'il sera donné ou non communication du document;

d) un tiers dépose une plainte en vertu du paragraphe 59(2).

Avis de prorogation de délai à l'auteur de la demande
15(2) En cas de prorogation du délai, le responsable de l'organisme public envoie à l'auteur de la demande un avis écrit lui indiquant :

a) les motifs de la prorogation;

b) la date à laquelle il peut s'attendre à recevoir une réponse;

c) la possibilité qu'il a de déposer une plainte auprès de l'ombudsman au sujet de la prorogation.

Transferring a request

16(1) Within seven days after a public body receives a request for access to a record, the head of the public body may transfer it to another public body if

(a) the record was produced by or for the other public body;

(b) the other public body was the first to obtain the record; or

(c) the record is in the custody or under the control of the other public body.

Response within 30 days after transfer

16(2) If a request is transferred under subsection (1),

(a) the head of the public body who transferred the request shall notify the applicant of the transfer in writing as soon as possible; and

(b) the head of the public body to which the request is transferred shall make every reasonable effort to respond to the request within 30 days after receiving it unless that time limit is extended under section 15 or notice is given to a third party under section 33.

DIVISION 3

MANDATORY EXCEPTIONS TO DISCLOSURE

PRIVACY OF A THIRD PARTY

Disclosure harmful to a third party's privacy

17(1) The head of a public body shall refuse to disclose personal information to an applicant if the disclosure would be an unreasonable invasion of a third party's privacy.

Transmission de la demande

16(1) Dans les sept jours suivant la date à laquelle un organisme public est saisi d'une demande de communication d'un document, le responsable de l'organisme peut transmettre la demande à un autre organisme public si, selon le cas :

a) le document a été produit par ou pour l'autre organisme public;

b) l'autre organisme public a été le premier a obtenir le document;

c) le document relève de l'autre organisme public.

Réponse dans les 30 jours

16(2) Si une demande est transmise en vertu du paragraphe (1) :

a) le responsable de l'organisme public qui a effectué la transmission en avise par écrit l'auteur de la demande dès que possible;

b) le responsable de l'organisme public à qui la demande est transmise s'efforce de donner suite à la demande dans les 30 jours suivant sa réception à moins que ce délai ne soit prorogé en vertu de l'article 15 ou que l'avis prévu à l'article 33 ne soit remis à un tiers.

SECTION 3

EXCEPTIONS OBLIGATOIRES À LA COMMUNICATION

VIE PRIVÉE DE TIERS

Atteinte à la vie privée d'un tiers

17(1) Le responsable d'un organisme public refuse de communiquer à l'auteur d'une demande des renseignements personnels dont la communication constituerait une atteinte injustifiée à la vie privée d'un tiers.

Disclosures deemed to be an unreasonable invasion of privacy

17(2) A disclosure of personal information about a third party is deemed to be an unreasonable invasion of the third party's privacy if

(a) the personal information is personal health information;

(b) the personal information was compiled and is identifiable as part of an investigation into a possible violation of a law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

(c) disclosure could reasonably be expected to reveal the identity of a third party who has provided information in confidence to a public body for the purposes of law enforcement or the administration of an enactment;

(d) the personal information relates to eligibility for or receipt of income assistance, legal aid benefits, social service benefits or similar benefits, or to the determination of benefit levels;

(e) the personal information relates to the third party's employment, occupational or educational history;

(f) the personal information was collected on a tax return or for the purpose of determining tax liability or collecting a tax;

(g) the personal information describes the third party's source of income or financial circumstances, activities or history;

(h) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations; or

(i) the personal information indicates the third party's racial or ethnic origin, religious or political beliefs or associations, or sexual orientation.

Présomption

17(2) Est réputée constituer une atteinte injustifiée à la vie privée d'un tiers la communication de renseignements personnels qui le concernent dans les cas suivants :

a) les renseignements personnels sont de nature médicale;

b) les renseignements personnels ont été recueillis et peuvent être assimilés à une partie du dossier d'une enquête liée à une éventuelle contravention à la loi, sauf dans la mesure où leur communication est nécessaire pour que soient engagées des poursuites judiciaires ou que soit continuée l'enquête;

c) la communication risquerait vraisemblablement de révéler l'identité d'un tiers qui a fourni les renseignements à titre confidentiel à un organisme pour l'exécution de la loi ou l'application d'un texte;

d) les renseignements personnels ont trait à l'admissibilité à l'aide au revenu, à l'aide juridique, à l'aide sociale ou à d'autres types semblables d'aide, à sa réception ou à l'établissement de son montant;

e) les renseignements personnels ont trait aux antécédents professionnels ou scolaires;

f) les renseignements personnels ont été recueillis dans une déclaration d'impôt ou afin que soit déterminé l'assujettissement à l'impôt ou que soit perçu un impôt;

g) les renseignements personnels précisent la source de revenu du tiers ou sa situation, ses activités ou ses antécédents financiers;

h) les renseignements personnels comportent des recommandations ou des évaluations personnelles, des renseignements ayant trait à la moralité ou à des évaluations de personnel;

i) les renseignements personnels indiquent la race, l'origine ethnique, les croyances ou allégeances religieuses ou politiques ou l'orientation sexuelle du tiers.

Determining unreasonable invasion of privacy

17(3) In determining under subsection (1) whether a disclosure of personal information not described in subsection (2) would unreasonably invade a third party's privacy, the head of a public body shall consider all the relevant circumstances including, but not limited to, whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Manitoba or a public body to public scrutiny;

(b) the disclosure is likely to promote public health or safety or protection of the environment;

(c) the disclosure will assist in a fair determination of the applicant's rights;

(d) the disclosure may unfairly expose the third party to harm;

(e) the personal information has been provided, explicitly or implicitly, in confidence;

(f) the personal information is highly sensitive;

(g) the personal information is likely to be inaccurate or unreliable;

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant; and

(i) the disclosure would be inconsistent with the purpose for which the personal information was obtained.

When disclosure not unreasonable

17(4) Despite subsection (2), disclosure of personal information is not an unreasonable invasion of a third party's privacy if

(a) the third party has consented to or requested the disclosure;

Atteinte injustifiée à la vie privée

17(3) Afin de déterminer si une communication de renseignements personnels que ne vise pas le paragraphe (2) constitue une atteinte injustifiée à la vie privée d'un tiers, le responsable d'un organisme public tient compte des circonstances pertinentes et examine notamment si :

a) la communication est souhaitable parce qu'elle permet au public de surveiller de près les activités du gouvernement du Manitoba ou d'un organisme public;

b) la communication peut vraisemblablement promouvoir la santé ou la sécurité publique ou la protection de l'environnement;

c) la communication facilitera la juste détermination des droits de l'auteur de la demande;

d) la communication peut injustement exposer le tiers à un préjudice;

e) les renseignements personnels ont été fournis, explicitement ou implicitement, à titre confidentiel;

f) les renseignements personnels sont d'une nature très délicate;

g) les renseignements personnels risquent d'être inexacts ou peu fiables;

h) la communication est susceptible de porter injustement atteinte à la réputation d'une personne dont il est fait mention dans le document demandé par l'auteur de la demande;

i) la communication serait incompatible avec les fins auxquelles ont été obtenus les renseignements personnels.

Absence d'atteinte injustifiée

17(4) Malgré le paragraphe (2), la communication de renseignements personnels ne constitue pas une atteinte injustifiée à la vie privée d'un tiers dans les cas suivants :

a) lorsque le tiers a consenti à cette communication ou l'a demandée;

(b) there are compelling circumstances affecting the mental or physical health or the safety of the applicant or another person and notice of the disclosure is mailed to the last known address of the third party;

(c) an enactment of Manitoba or Canada expressly authorizes or requires the disclosure;

(d) the disclosure is for research purposes and is in accordance with section 47;

(e) the information is about the third party's job classification, salary range, benefits, employment responsibilities or travel expenses

(i) as an officer or employee of a public body,

(ii) as a minister, or

(iii) as an elected or appointed member of the governing council or body of a local public body or as a member of the staff of such a council or body;

(f) the disclosure reveals financial or other details of a contract to supply goods or services to or on behalf of a public body;

(g) the disclosure reveals information about a discretionary benefit of a financial nature granted to the third party by a public body, including the granting of a licence or permit;

(h) the information is about an individual who has been dead for more than 10 years; or

(i) the record requested by the applicant is publicly available.

b) lorsqu'il existe une situation d'urgence ayant une incidence sur la santé ou la sécurité mentale ou physique de l'auteur de la demande ou d'une autre personne, si un avis de la communication est envoyé par courrier à la dernière adresse connue du tiers;

c) lorsqu'un texte provincial ou fédéral autorise ou exige expressément la communication;

d) lorsque la communication est effectuée à des fins de recherche et en conformité avec l'article 47;

e) lorsque les renseignements portent sur la classification, l'éventail des salaires, les avantages, les attributions ou les indemnités de déplacement du tiers :

(i) en qualité de cadre ou d'employé d'un organisme public,

(ii) en qualité de ministre,

(iii) en qualité de membre élu ou nommé du conseil ou de l'organe de direction d'un organisme public local ou en qualité de membre du personnel d'un tel conseil ou organe;

f) lorsque la communication révèle les modalités financières ou autres d'un contrat visant la fourniture de biens ou de services à un organisme public ou pour celui-ci;

g) lorsque la communication révèle des renseignements au sujet d'un avantage financier facultatif qu'un organisme public a accordé au tiers, y compris l'octroi d'une licence ou d'un permis;

h) lorsque les renseignements concernent un particulier décédé depuis plus de 10 ans;

i) lorsque le document demandé par l'auteur de la demande est à la disposition du public.

Disclosure with third party's consent
17(5) If the third party consents to or requests disclosure under clause (4)(a), the head of the public body may

(a) require the consent or request to be in writing; and

(b) comply with the requirement to disclose by disclosing the information directly to the third party rather than to the applicant.

Volume disclosure from a public registry
17(6) The head of a public body shall not disclose to an applicant under this Part personal information in a public registry on a volume or bulk basis.

BUSINESS INTERESTS OF THIRD PARTIES

Disclosure harmful to a third party's business interests
18(1) The head of a public body shall refuse to disclose to an applicant information that would reveal

(a) a trade secret of a third party;

(b) commercial, financial, labour relations, scientific or technical information supplied to the public body by a third party, explicitly or implicitly, on a confidential basis and treated consistently as confidential information by the third party; or

(c) commercial, financial, labour relations, scientific or technical information the disclosure of which could reasonably be expected to

(i) harm the competitive position of a third party,

(ii) interfere with contractual or other negotiations of a third party,

Communication avec le consentement du tiers
17(5) Si le tiers consent à la communication ou la demande en vertu de l'alinéa (4)a), le responsable de l'organisme public peut :

a) exiger que le consentement ou la demande soit écrit;

b) observer l'obligation de communication en communiquant les renseignements directement au tiers plutôt qu'à l'auteur de la demande.

Communication en nombre
17(6) Le responsable d'un organisme public ne peut, sous le régime de la présente partie, communiquer en nombre à l'auteur d'une demande des renseignements personnels se trouvant dans un registre public.

INTÉRÊTS COMMERCIAUX DE TIERS

Intérêts commerciaux de tiers
18(1) Le responsable d'un organisme public refuse de communiquer à l'auteur d'une demande des renseignements qui révéleraient :

a) des secrets industriels de tiers;

b) des renseignements d'ordre commercial, financier, professionnel, scientifique ou technique, lesquels renseignements ont été fournis à l'organisme public par un tiers, explicitement ou implicitement, à titre confidentiel et sont traités à ce titre de façon constante par le tiers;

c) des renseignements d'ordre commercial, financier, professionnel, scientifique ou technique, dont la divulgation risquerait vraisemblablement :

(i) de nuire à la compétitivité d'un tiers,

(ii) d'entraver des négociations menées par un tiers en vue de contrats ou à d'autres fins,

(iii) result in significant financial loss or gain to a third party,

(iv) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied, or

(v) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour relations dispute.

Tax return information
18(2) The head of a public body shall refuse to disclose to an applicant information about a third party that was collected on a tax return or for the purpose of determining tax liability or collecting a tax.

Exceptions
18(3) Subsections (1) and (2) do not apply if

(a) the third party consents to the disclosure;

(b) the information is publicly available;

(c) an enactment of Manitoba or Canada expressly authorizes or requires the disclosure; or

(d) the information discloses the final results of a product or environmental test conducted by or for the public body, unless the test was done for a fee paid by the third party.

(iii) d'entraîner des pertes ou profits financiers injustifiés pour un tiers,

(iv) d'interrompre la communication de renseignements semblables à l'organisme public, alors qu'il serait dans l'intérêt public que cette communication se poursuive,

(v) de révéler des renseignements fournis à une personne nommée pour régler un conflit de travail ou mener une enquête relativement à un tel conflit, notamment un arbitre, un médiateur ou un agent des relations du travail, ou de révéler le contenu du rapport de cette personne.

Renseignements relevés dans une déclaration d'impôt
18(2) Le responsable d'un organisme public refuse de communiquer à l'auteur d'une demande des renseignements concernant un tiers qui ont été relevés dans une déclaration d'impôt ou recueillis en vue de l'établissement de l'assujettissement à l'impôt ou de la perception d'un impôt.

Exceptions
18(3) Les paragraphes (1) et (2) ne s'appliquent pas dans les cas suivants :

a) le tiers consent à la communication;

b) les renseignements sont mis à la disposition du public;

c) un texte provincial ou fédéral permet ou exige expressément la communication des renseignements;

d) les renseignements donnent le résultat définitif d'un essai de produits ou d'environnement effectué par ou pour l'organisme public, sauf si le tiers a payé une somme pour l'essai.

Disclosure in the public interest

18(4) Subject to section 33 and the other exceptions in this Act, a head of a public body may disclose a record that contains information described in subsection (1) or (2) if, in the opinion of the head, the private interest of the third party in non-disclosure is clearly outweighed by the public interest in disclosure for the purposes of

(a) public health or safety or protection of the environment;

(b) improved competition; or

(c) government regulation of undesirable trade practices.

CABINET CONFIDENCES

Cabinet confidences

19(1) The head of a public body shall refuse to disclose to an applicant information that would reveal the substance of deliberations of Cabinet, including

(a) an agenda, minute or other record of the deliberations or decisions of Cabinet;

(b) discussion papers, policy analyses, proposals, advice or similar briefing material submitted or prepared for submission to Cabinet;

(c) a proposal or recommendation prepared for, or reviewed and approved by, a minister for submission to Cabinet;

(d) a record that reflects communications among ministers relating directly to the making of a government decision or the formulation of government policy; and

Communication dans l'intérêt public

18(4) Sous réserve de l'article 33 et des autres exceptions prévues par la présente loi, le responsable d'un organisme public peut communiquer un document contenant les renseignements que vise le paragraphe (1) ou (2) si, à son avis, des raisons d'intérêt public justifient nettement les conséquences éventuelles de la communication pour le tiers, lesquelles raisons d'intérêt public concernent :

a) la santé ou la sécurité publique ou la protection de l'environnement;

b) l'accroissement de la concurrence;

c) la réglementation du gouvernement relative aux pratiques commerciales non souhaitables.

DOCUMENTS CONFIDENTIELS DU CABINET

Documents confidentiels du Cabinet

19(1) Le responsable d'un organisme public refuse de communiquer à l'auteur d'une demande des renseignements qui révéleraient le contenu des délibérations du Cabinet, y compris :

a) les ordres du jour du Cabinet, ses procès-verbaux ou les autres documents concernant ses délibérations ou ses décisions;

b) les documents de travail, les analyses politiques, les propositions, les avis ou les documents d'information semblables soumis au Cabinet ou préparés à cette fin;

c) les propositions ou les recommandations préparées pour les ministres ou que ceux-ci ont examinées et approuvées afin qu'elles soient soumises au Cabinet;

d) les documents faisant état de communications entre les ministres ayant directement trait à la prise des décisions du gouvernement ou à la formulation de sa politique;

(e) a record prepared to brief a minister about a matter that is before, or is proposed to be brought before, Cabinet or that is the subject of communications among ministers relating directly to government decisions or the formulation of government policy.

Exceptions
19(2) Subsection (1) does not apply if

(a) the Cabinet for which, or in respect of which, the record has been prepared consents to the disclosure; or

(b) the record is more than 30 years old.

INFORMATION PROVIDED BY ANOTHER GOVERNMENT

Information provided by another government to department or government agency
20(1) The head of a department or government agency shall refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal information provided, explicitly or implicitly, in confidence by any of the following or their agencies:

(a) the Government of Canada;

(b) the government of another province or territory of Canada;

(c) a local public body;

(d) the government of a foreign country, or of a state, province or territory of a foreign country;

(e) an organization representing one or more governments; or

(f) an international organization of states.

e) les documents préparés en vue d'informer les ministres sur des questions portées ou qu'il est prévu de porter devant le Cabinet, ou sur des questions qui font l'objet des communications visées par l'alinéa d).

Exceptions
19(2) Le paragraphe (1) ne s'applique pas dans les cas suivants :

a) le Cabinet concerné donne son consentement à la communication du document;

b) le document date de plus de 30 ans.

RENSEIGNEMENTS FOURNIS PAR UN AUTRE GOUVERNEMENT

Renseignements fournis par un autre gouvernement
20(1) Le responsable d'un ministère ou d'un organisme gouvernemental refuse de communiquer à l'auteur d'une demande des renseignements dont la communication risquerait vraisemblablement de révéler des renseignements fournis, explicitement ou implicitement, à titre confidentiel par les autorités mentionnées ci-après ou leurs organismes :

a) le gouvernement du Canada;

b) le gouvernement d'une autre province ou d'un territoire du Canada;

c) les organismes publics locaux;

d) les gouvernements des pays étrangers ou des États, des provinces ou des territoires des pays étrangers;

e) les organisations représentant un ou des gouvernements;

f) les organisations internationales d'États.

Information provided by another government to a local public body

20(2) The head of a local public body shall refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal information provided, explicitly or implicitly, in confidence by

(a) a government, local public body, organization or agency described in subsection (1); or

(b) the Government of Manitoba or a government agency.

Exceptions

20(3) Subsections (1) and (2) do not apply if the government, local public body, organization or agency that provided the information

(a) consents to the disclosure; or

(b) makes the information public.

DIVISION 4

DISCRETIONARY EXCEPTIONS TO DISCLOSURE

RELATIONS BETWEEN MANITOBA AND OTHER GOVERNMENTS

Disclosure harmful to relations between Manitoba and other governments

21(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to harm relations between the Government of Manitoba or a government agency and any of the following or their agencies:

(a) the Government of Canada;

(b) the government of another province or territory of Canada;

Renseignements fournis à des organismes publics locaux

20(2) Le responsable d'un organisme public local refuse de communiquer à l'auteur d'une demande des renseignements dont la communication risquerait vraisemblablement de révéler des renseignements fournis, explicitement ou implicitement, à titre confidentiel par :

a) les gouvernements, les organismes publics locaux ou les organisations que vise le paragraphe (1) ou leurs organismes;

b) le gouvernement du Manitoba ou un organisme gouvernemental.

Exceptions

20(3) Les paragraphes (1) et (2) ne s'appliquent pas si le gouvernement, l'organisme public local, l'organisation ou l'organisme qui a fourni les renseignements :

a) ou bien consent à leur communication;

b) ou bien les rend publics.

SECTION 4

EXCEPTIONS FACULTATIVES À LA COMMUNICATION

RELATIONS ENTRE LE MANITOBA ET D'AUTRES GOUVERNEMENTS

Communication nuisible aux relations intergouvernementales

21(1) Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements dont la communication risquerait vraisemblablement de nuire aux relations du gouvernement du Manitoba ou des organismes gouvernementaux avec les autorités suivantes ou leurs organismes :

a) le gouvernement du Canada;

b) le gouvernement d'une autre province ou d'un territoire du Canada;

(c) a local public body;

(d) the government of a foreign country, or of a state, province or territory of a foreign country;

(e) an organization representing one or more governments; or

(f) an international organization of states.

Consent required for disclosure by local public body
21(2) When the request for access has been received by a local public body, the head of the local public body may disclose information referred to in subsection (1) only with the consent of the head of the department of the Government of Manitoba or government agency affected.

LOCAL PUBLIC BODY CONFIDENCES

Local public body confidences
22(1) The head of a local public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal

(a) a draft of a resolution, by-law or other legal instrument by which the local public body acts; or

(b) the substance of deliberations of a meeting of its elected officials or of its governing body or a committee of its elected officials or governing body, if an enactment or a resolution, by-law or other legal instrument by which the local public body acts authorizes the holding of that meeting in the absence of the public.

c) les organismes publics locaux;

d) les gouvernements des pays étrangers ou des États, des provinces ou des territoires des pays étrangers;

e) les organisations représentant un ou des gouvernements;

f) les organisations internationales d'États.

Consentement obligatoire
21(2) Le responsable de l'organisme public qui reçoit une demande de communication ne peut communiquer les renseignements que vise le paragraphe (1) qu'avec le consentement du responsable du ministère du gouvernement du Manitoba ou de l'organisme gouvernemental concerné.

DOCUMENTS CONFIDENTIELS DES ORGANISMES PUBLICS LOCAUX

Documents confidentiels des organismes publics locaux
22(1) Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements dont la communication risquerait vraisemblablement de révéler :

a) l'existence d'un projet d'instrument juridique, y compris un projet de résolution, de règlement ou de règlement administratif, au moyen duquel l'organisme public local agit;

b) la substance des délibérations qui ont eu lieu au cours d'une réunion des représentants élus de l'organisme public local ou d'une réunion de son organe dirigeant ou d'un des comités de ses représentants élus ou de son organe dirigeant, si un texte ou un instrument juridique, y compris une résolution, un règlement ou un règlement administratif au moyen duquel l'organisme public local agit autorise la tenue de la réunion à huis clos.

Exceptions
22(2) Subsection (1) does not apply if

(a) the draft of the resolution, by-law or other legal instrument or the subject matter of the deliberations has been considered in a meeting open to the public; or

(b) the information referred to in subsection (1) is in a record that is more than 30 years old.

ADVICE TO A PUBLIC BODY

Advice to a public body
23(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to reveal

(a) advice, opinions, proposals, recommendations, analyses or policy options developed by or for the public body or a minister;

(b) consultations or deliberations involving officers or employees of the public body or a minister;

(c) positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the Government of Manitoba or the public body, or considerations that relate to those negotiations;

(d) plans relating to the management of personnel or the administration of the public body that have not yet been implemented;

(e) the content of draft legislation, regulations, and orders of ministers or the Lieutenant Governor in Council; or

Exceptions
22(2) Le paragraphe (1) ne s'applique pas si :

a) le projet d'instrument juridique ou la question qui a fait l'objet des délibérations a été étudié au cours d'une réunion ouverte au public;

b) les renseignements que vise le paragraphe (1) se trouvent dans un document datant de plus de 30 ans.

AVIS DESTINÉS AUX ORGANISMES PUBLICS

Avis destinés aux organismes publics
23(1) Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements dont la communication risquerait vraisemblablement de révéler :

a) des avis, des opinions, des propositions, des recommandations, des analyses ou des options politiques élaborés par ou pour l'organisme public ou un ministre;

b) des consultations ou des délibérations mettant en cause des cadres ou des employés de l'organisme public ou un ministre;

c) des positions, des projets, des lignes de conduite, des critères ou des instructions élaborés en vue de négociations contractuelles ou autres menées par ou pour le gouvernement du Manitoba ou l'organisme public, ou des considérations liées à ces négociations;

d) des projets relatifs à la gestion du personnel ou à l'administration de l'organisme public et qui n'ont pas encore été mis en oeuvre;

e) le contenu d'avant-projets de loi ainsi que de projets de règlement, de décret et d'arrêté émanant de ministres ou du lieutenant-gouverneur en conseil;

(f) information, including the proposed plans, policies or projects of a public body, the disclosure of which could reasonably be expected to result in disclosure of a pending policy or budgetary decision.

Exceptions
23(2) Subsection (1) does not apply if the information

(a) is in a record that is more than 30 years old;

(b) is an instruction or guideline issued to officers or employees of the public body;

(c) is a substantive rule or statement of policy that has been adopted by the public body for the purpose of interpreting an enactment or administering a program or activity of the public body;

(d) is the result of a product or environmental test conducted by or for the public body;

(e) is a statement of the reasons for a decision made in the exercise of a quasi-judicial function or a discretionary power that affects the applicant;

(f) is the result of background research of a scientific or technical nature undertaken in connection with the formulation of a policy proposal;

(g) is a statistical survey; or

(h) is a final report or final audit on the performance or efficiency of the public body or of any of its programs or policies, except where the information is a report or appraisal of the performance of an individual who is or was an officer or employee of the public body.

Interpretation of "background research"
23(3) For the purpose of clause (2)(f), background research of a technical nature does not include economic or financial research undertaken in connection with the formulation of a tax policy or other economic policy of the public body.

f) des renseignements – y compris les projets, les politiques ou les entreprises proposés d'un organisme public – dont la communication risquerait vraisemblablement d'entraîner la divulgation d'une décision de principe ou budgétaire à l'état de projet.

Exceptions
23(2) Le paragraphe (1) ne s'applique pas aux renseignements :

a) qui se trouvent dans un document datant de plus de 30 ans;

b) qui constituent des directives destinées aux cadres ou aux employés de l'organisme public;

c) qui constituent la règle de fond ou la position que l'organisme public a adoptée aux fins de l'interprétation d'un texte ou de la gestion d'un de ses programmes ou d'une de ses activités;

d) qui constituent le résultat d'un essai de produits ou d'environnement effectué par ou pour l'organisme public;

e) qui constituent l'exposé des motifs d'une décision rendue dans l'exercice d'une fonction quasi judiciaire ou prise dans l'exercice d'un pouvoir discrétionnaire touchant l'auteur de la demande;

f) qui constituent le résultat d'une recherche de base à caractère scientifique ou technique entreprise dans le cadre de la formulation d'un énoncé de politique;

g) qui constituent un sondage statistique;

h) qui constituent une vérification ou un rapport final quant au rendement ou à l'efficacité de l'organisme public ou quant à l'efficacité de ses programmes ou de ses politiques, à l'exclusion d'un rapport ou d'une évaluation portant sur le rendement d'un particulier qui est ou était un cadre ou un employé de l'organisme.

Sens de « recherche de base »
23(3) Pour l'application de l'alinéa (2)f), les recherches de base à caractère technique excluent les recherches à caractère économique ou financier entreprises dans le cadre de la formulation des politiques budgétaires de l'organisme public ou de ses autres politiques économiques.

INDIVIDUAL OR PUBLIC SAFETY

Disclosure harmful to individual or public safety
24 The head of a public body may refuse to disclose to an applicant information, including personal information about the applicant, if disclosure could reasonably be expected to

(a) threaten or harm the mental or physical health or the safety of another person;

(b) result, in the opinion of a duly qualified physician, psychologist, or other appropriate expert, in serious harm to the applicant's mental or physical health or safety; or

(c) threaten public safety.

LAW ENFORCEMENT AND LEGAL PROCEEDINGS

Disclosure harmful to law enforcement or legal proceedings
25(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to

(a) harm a law enforcement matter;

(b) prejudice the defence of Canada or of a foreign state allied to or associated with Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism;

(c) harm the effectiveness of investigative techniques and procedures currently used, or likely to be used, in law enforcement;

SÉCURITÉ DU PARTICULIER OU DU PUBLIC

Communication nuisible à la sécurité du particulier ou du public
24 Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements, y compris des renseignements personnels concernant celui-ci, dont communication risquerait vraisemblablement :

a) de menacer la santé physique ou mentale ou la sécurité d'autrui ou d'y nuire;

b) de causer, de l'avis d'un spécialiste, y compris un médecin qualifié ou un psychologue, un préjudice grave à la sécurité ou à l'état physique ou mental de l'auteur de la demande;

c) de menacer la sécurité du public.

EXÉCUTION DE LA LOI ET INSTANCES JUDICIAIRES

Communication nuisible à l'exécution de la loi
25(1) Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements dont la communication pourrait vraisemblablement :

a) faire obstacle à une question qui concerne l'exécution de la loi;

b) porter préjudice à la défense du Canada ou d'États étrangers alliés ou associés avec le Canada ou à la détection, à la prévention ou à la répression de l'espionnage, du sabotage ou du terrorisme;

c) réduire l'efficacité de techniques et de méthodes d'enquête utilisées ou susceptibles d'être utilisées dans l'exécution de la loi;

(d) interfere with the gathering of, or reveal criminal intelligence that has a reasonable connection with, the detection, prevention or suppression of organized criminal activities or of serious and repetitive criminal activities;

(e) endanger the life or safety of a law enforcement officer or any other person;

(f) deprive a person of the right to a fair trial or impartial adjudication;

(g) disclose a record that has been confiscated from a person by a peace officer in accordance with an enactment of Manitoba or Canada;

(h) facilitate the escape from custody of an individual who is lawfully detained;

(i) facilitate the commission of an unlawful act or interfere with the control of crime;

(j) disclose technical information relating to weapons or potential weapons;

(k) interfere with the proper custody or supervision of an individual who is lawfully detained;

(l) reveal information in a correctional record supplied, explicitly or implicitly, in confidence;

(m) expose to civil liability the author of a law enforcement record or a person who has been quoted or paraphrased in the record; or

(n) be injurious to the conduct of existing or anticipated legal proceedings.

No disclosure if offence

25(2) The head of a public body shall refuse to disclose information to an applicant if the information is in a law enforcement record and the disclosure is prohibited under an enactment of Canada.

d) nuire à la collecte ou révéler l'existence de renseignements judiciaires secrets ayant des liens suffisants avec la détection, la prévention ou la répression des activités criminelles organisées ou des activités criminelles graves et répétitives;

e) menacer la vie ou la sécurité d'un agent d'exécution de la loi ou d'une autre personne;

f) priver une personne de son droit à un procès équitable ou à un jugement impartial;

g) révéler un document confisqué à une personne par un agent de la paix en conformité avec un texte provincial ou fédéral;

h) faciliter l'évasion d'un particulier légalement détenu;

i) faciliter la perpétration d'un acte illégal ou entraver la répression du crime;

j) révéler des renseignements techniques concernant des armes actuelles ou futures;

k) nuire à la garde ou à la surveillance efficace d'un particulier légalement détenu;

l) révéler des renseignements qui figurent dans un document des services correctionnels et qui sont fournis, explicitement ou implicitement, à titre confidentiel;

m) exposer l'auteur d'un document lié à l'exécution de la loi ou le particulier qui y est cité ou dont les propos y sont paraphrasés;

n) nuire à la conduite d'instances judiciaires en cours ou prévues.

Infraction à un texte fédéral

25(2) Le responsable d'un organisme public refuse de communiquer à l'auteur d'une demande des renseignements qui figurent dans un document lié à l'exécution de la loi et dont la communication est interdite par un texte fédéral.

Exceptions
25(3) Subsection (1) does not apply to

(a) a report, including statistical analysis, on the degree of success achieved by a law enforcement program, unless disclosure of the report could reasonably be expected to cause any harm or interference referred to in subsection (1); or

(b) a record that provides a general outline of the structure or programs of a law enforcement agency.

SECURITY OF PROPERTY

Disclosure harmful to security of property
26 The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to harm or threaten the security of any property or system, including a building, a vehicle, an electronic information system or a communications system.

SOLICITOR-CLIENT PRIVILEGE

Solicitor-client privilege
27(1) The head of a public body may refuse to disclose to an applicant

(a) information that is subject to solicitor-client privilege;

(b) information prepared by or for an agent or lawyer of the Minister of Justice and Attorney-General or the public body in relation to a matter involving the provision of legal advice or legal services or in relation to the investigation or prosecution of an offence; or

Exceptions
25(3) Le paragraphe (1) ne s'applique pas :

a) aux rapports, y compris les analyses statistiques, qui ont trait au niveau de succès atteint dans le cadre d'un programme d'exécution de la loi, sauf si la communication des rapports risquerait vraisemblablement de nuire à la poursuite des objectifs visés à ce paragraphe;

b) aux documents qui donnent un aperçu général de la structure ou des programmes des organismes chargés de l'exécution de la loi.

SÉCURITÉ DES BIENS

Communication nuisible à la sécurité des biens
26 Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements dont la communication pourrait vraisemblablement soit nuire à la sécurité de biens, de réseaux ou de systèmes, y compris des bâtiments, des véhicules ou des réseaux ou systèmes d'information électroniques ou de communications, soit compromettre cette sécurité.

SECRET PROFESSIONNEL DE L'AVOCAT

Secret professionnel de l'avocat
27(1) Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande :

a) des renseignements protégés par le privilège des communications entre client et avocat;

b) des renseignements préparés par ou pour un mandataire ou un avocat du ministre de la Justice et procureur général ou l'organisme public relativement à une question nécessitant la fourniture de conseils ou de services juridiques ou relativement à l'enquête ou à la poursuite concernant une infraction;

(c) information in correspondence between an agent or lawyer of the Minister of Justice and Attorney-General or the public body and any other person in relation to a matter involving the provision of legal advice or legal services or in relation to the investigation or prosecution of an offence.

Third party's solicitor-client privilege
27(2) The head of a public body shall refuse to disclose to an applicant information that is subject to a solicitor-client privilege of a person other than the public body.

ECONOMIC AND OTHER INTERESTS OF A PUBLIC BODY

Disclosure harmful to economic and other interests of a public body
28(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to harm the economic or financial interests or negotiating position of a public body or the Government of Manitoba, including the following information:

(a) a trade secret of a public body or the Government of Manitoba;

(b) financial, commercial, scientific, technical or other information in which a public body or the Government of Manitoba has a proprietary interest or right of use;

(c) information the disclosure of which could reasonably be expected to

(i) result in financial loss to,

(ii) prejudice the competitive position of, or

(iii) interfere with or prejudice contractual or other negotiations of,

a public body or the Government of Manitoba;

c) des renseignements figurant dans de la correspondance entre un mandataire ou un avocat du ministre de la Justice et procureur général ou l'organisme public et une autre personne relativement à une question nécessitant la fourniture de conseils ou de services juridiques ou relativement à l'enquête ou à la poursuite concernant une infraction.

Secret professionnel de l'avocat concernant un tiers
27(2) Le responsable d'un organisme public refuse de communiquer à l'auteur d'une demande des renseignements qui sont protégés par le privilège des communications entre client et avocat, si le privilège concerne une autre personne que l'organisme public.

INTÉRÊTS ÉCONOMIQUES ET AUTRES D'ORGANISMES PUBLICS

Intérêts économiques et autres d'organismes publics
28(1) Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements dont la communication risquerait vraisemblablement de porter préjudice à l'intérêt économique ou financier d'un organisme public ou du gouvernement du Manitoba ou à sa position de négociateur, y compris les renseignements suivants :

a) les secrets industriels d'un organisme public ou du gouvernement du Manitoba;

b) les renseignements financiers, commerciaux, scientifiques, techniques ou autres relativement auxquels un organisme public ou le gouvernement du Manitoba a un droit de propriété ou d'usage;

c) les renseignements dont la communication risquerait vraisemblablement de causer des pertes financières à un organisme public ou au gouvernement du Manitoba, de nuire à sa compétitivité ou d'entraver des négociations qu'il mène en vue de contrats ou à d'autres fins;

(d) innovative scientific or technical information obtained through research by an employee of a public body or the Government of Manitoba; or

(e) information the disclosure of which could reasonably be expected to result in an undue loss or benefit to a person, or premature disclosure of a pending policy decision, including but not limited to,

(i) a contemplated change in taxes or other source of revenue,

(ii) a contemplated change in government borrowing,

(iii) a contemplated change in the conditions of operation of a financial institution, stock exchange, or commodities exchange, or of any self-regulating association recognized by The Manitoba Securities Commission under an enactment of Manitoba, or

(iv) a contemplated sale or purchase of securities, bonds or foreign or Canadian currency.

Exception

28(2) Subsection (1) does not apply to the results of a product or environmental test conducted by or for a public body, unless the test was done for the purpose of developing methods of testing or for the purpose of testing products for possible purchase.

S.M. 1998, c. 45, s. 10.

TESTING PROCEDURES, TESTS AND AUDITS

Testing procedures, tests and audits

29 The head of a public body may refuse to disclose to an applicant information relating to

(a) testing or auditing procedures or techniques; or

(b) details of specific tests to be given or audits to be conducted;

if disclosure could reasonably be expected to prejudice the use or results of particular tests or audits.

d) les renseignements techniques ou scientifiques innovateurs obtenus grâce à des recherches par un employé d'un organisme public ou du gouvernement du Manitoba;

e) les renseignements dont la communication risquerait vraisemblablement d'entraîner des pertes ou des avantages injustifiés pour une personne, ou la communication prématurée d'une décision de principe à l'état de projet, y compris :

(i) les projets de changement touchant les taxes, les impôts ou les autres sources de revenu,

(ii) les projets de changement touchant les emprunts du gouvernement,

(iii) les projets de changements touchant le mode de fonctionnement des institutions financières, des bourses ou des bourses de marchandises ou encore des associations autoréglementées que reconnaît la Commission des valeurs mobilières du Manitoba en vertu d'un texte du Manitoba,

(iv) les projets de vente ou d'achat de valeurs mobilières, d'obligations ou de devises canadiennes ou étrangères.

Exception

28(2) Le paragraphe (1) ne s'applique pas aux résultats d'un essai de produits ou d'environnement effectué par ou pour un organisme public, sauf si l'essai a été fait dans le but de mettre au point des méthodes d'essais ou de mettre à l'essai des produits en vue d'un achat éventuel.

L.M. 1998, c. 45, art. 10.

EXAMENS ET VÉRIFICATIONS

Examens et vérifications

29 Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements relatifs à certaines opérations – essais, épreuves, examens, vérifications – ou aux méthodes et techniques employées pour les effectuer, et dont la communication risquerait vraisemblablement de nuire à l'exploitation de ces opérations ou de fausser leurs résultats.

CONFIDENTIAL EVALUATIONS

Confidential evaluations about the applicant
30 The head of a public body may refuse to disclose to an applicant personal information that has been provided in confidence, explicitly or implicitly, for purposes of determining the applicant's suitability, eligibility or qualifications for employment, or for the purpose of awarding a contract.

PRESERVATION OF HERITAGE RESOURCES AND LIFE FORMS

Disclosure harmful to preservation of heritage resources and life forms
31(1) The head of a public body may refuse to disclose information to an applicant if disclosure could reasonably be expected to result in damage to or interfere with the preservation, protection or conservation of

(a) a heritage resource as defined in *The Heritage Resources Act*; or

(b) any rare, endangered, threatened or vulnerable life form, including plants, vertebrates and invertebrates.

Information re designation of sites
31(2) The head of a public body may refuse to disclose to an applicant information relating to a contemplated designation of a heritage site, a municipal heritage site or a heritage object under *The Heritage Resources Act*.

ÉVALUATIONS CONFIDENTIELLES

Évaluations confidentielles
30 Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements personnels qui ont été fournis explicitement ou implicitement à titre confidentiel afin que soient déterminées les aptitudes, l'admissibilité ou les compétences de l'auteur de la demande relativement à un emploi ou que soit attribué un contrat.

PROTECTION DES RICHESSES DU PATRIMOINE ET DES FORMES DE VIE

Communication nuisible à la protection du patrimoine
31(1) Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements dont la communication risquerait vraisemblablement soit d'endommager des richesses du patrimoine au sens de la *Loi sur les richesses du patrimoine* ou des formes de vie rares, en voie de disparition, menacées ou vulnérables, y compris les plantes, les vertébrés et les invertébrés, soit de nuire à leur protection ou à leur conservation.

Renseignements concernant la désignation de sites
31(2) Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements ayant trait à un projet de désignation touchant un site du patrimoine, un site municipal du patrimoine ou un objet du patrimoine visé par la *Loi sur les richesses du patrimoine*.

INFORMATION THAT IS OR WILL BE AVAILABLE TO THE PUBLIC

Information that is or will be available to the public
32(1) The head of a public body may refuse to disclose to an applicant information

(a) that is freely available to the public or is available for purchase by the public; or

(b) that will be made available to the public within 90 days after the applicant's request is received.

Notification when information becomes available
32(2) When the head of a public body has refused to disclose information under clause (1)(b), the head shall

(a) notify the applicant when the information becomes available; and

(b) if the information is not available to the public within 90 days after the applicant's request is received, reconsider the request as if it were a new request received on the last day of the 90 day period and not refuse access to the information under clause (1)(b).

DIVISION 5

THIRD PARTY INTERVENTION

Notice to third party
33(1) When the head of a public body is considering giving access to a record the disclosure of which might

(a) result in an unreasonable invasion of a third party's privacy under section 17; or

(b) affect a third party's interests described in subsection 18(1) or (2);

the head shall, where practicable and as soon as practicable, give written notice to the third party in accordance with subsection (3).

RENSEIGNEMENTS QUI SONT OU SERONT MIS À LA DISPOSITION DU PUBLIC

Renseignements qui sont ou seront mis à la disposition du public
32(1) Le responsable d'un organisme public peut refuser de communiquer à l'auteur d'une demande des renseignements :

a) qui sont mis à la disposition du public, moyennant paiement d'un droit ou non;

b) qui seront mis à la disposition du public dans les 90 jours suivant la réception de la demande.

Avis
32(2) S'il a refusé de communiquer des renseignements en vertu de l'alinéa (1)b), le responsable de l'organisme public :

a) avise l'auteur de la demande du moment où les renseignements seront mis à la disposition du public;

b) si les renseignements ne sont pas mis à la disposition du public dans les 90 jours suivant la réception de la demande, procède à un nouvel examen de celle-ci comme s'il s'agissait d'une nouvelle demande reçue le dernier jour de la période susmentionnée et ne peut refuser l'accès aux renseignements sous le régime de l'alinéa (1)b).

SECTION 5

INTERVENTION DE TIERS

Avis au tiers
33(1) Le responsable d'un organisme public qui envisage de donner communication d'un document pouvant entraîner une atteinte injustifiée à la vie privée d'un tiers sous le régime de l'article 17 ou porter atteinte aux intérêts d'un tiers sous le régime du paragraphe 18(1) ou (2) est tenu, si la chose est réalisable, d'en aviser par écrit le tiers dès que possible en conformité avec le paragraphe (3).

Waiver of notice requirement

33(2) A third party is deemed to have waived the requirement for notice in subsection (1) in a case where the third party has consented to or requested the disclosure.

Content of notice

33(3) A notice under subsection (1) must

(a) state that a request has been made for access to a record that may contain information the disclosure of which might invade the privacy or affect the interests of the third party;

(b) include a copy of the record or part of it containing the information in question or describe the contents of the record; and

(c) state that, within 20 days after the notice is given, the third party may, in writing, consent to the disclosure or make representations to the head of the public body explaining why the information should not be disclosed.

Further details of notice

33(4) When notice is given under subsection (1), the head of the public body shall also give the applicant a notice stating that

(a) the record requested by the applicant may contain information the disclosure of which might invade the privacy or affect the interests of a third party;

(b) the third party is being given an opportunity to make representations concerning disclosure; and

(c) a decision respecting disclosure will be made within 30 days after the day notice is given under subsection (1), unless the time limit for responding is extended under section 15.

Written representations

33(5) Representations by a third party under this section must be made in writing unless the head permits them to be made orally.

Renonciation à l'avis

33(2) Le tiers est réputé avoir renoncé à l'avis prévu au paragraphe (1) s'il a consenti à la communication du document ou l'a demandée.

Contenu de l'avis

33(3) L'avis prévu au paragraphe (1) :

a) mentionne qu'a été faite une demande de communication d'un document pouvant contenir des renseignements dont la communication pourrait constituer une atteinte injustifiée à la vie privée du tiers ou porter atteinte à ses intérêts;

b) comprend une copie du document ou de la partie de celui-ci qui contient les renseignements en question ou désigne le contenu du document;

c) mentionne que le tiers peut, par écrit, consentir à la communication des renseignements ou présenter au responsable de l'organisme public ses observations quant aux raisons qui justifieraient un refus de communication, dans les 20 jours suivant la transmission de l'avis.

Autres détails

33(4) Dans le cas où un avis est donné en application du paragraphe (1), le responsable de l'organisme public donne également à l'auteur de la demande un avis mentionnant :

a) que le document demandé par l'auteur de la demande peut contenir des renseignements dont la communication pourrait constituer une atteinte à la vie privée d'un tiers ou porter atteinte à ses intérêts;

b) que le tiers a la possibilité de présenter des observations concernant la communication;

c) qu'une décision sera prise au sujet de la communication dans les 30 jours suivant la transmission de l'avis prévu au paragraphe (1), à moins que le délai prévu pour la réponse ne soit prorogé en vertu de l'article 15.

Observations écrites

33(5) Les observations prévues au présent article se font par écrit à moins que le responsable ne permette qu'elles se fassent oralement.

Decision within 30 days

34(1) Within 30 days after notice is given under subsection 33(1), the head of the public body shall decide whether or not to give access to the record or to part of the record, but no decision may be made before the earlier of

(a) 21 days after the notice is given; and

(b) the day a response is received from the third party.

Notice of decision

34(2) On reaching a decision under subsection (1), the head of the public body shall give written notice of the decision, including reasons for the decision, to the applicant and the third party.

Extended time limit

34(3) Subsection 15(1) applies with necessary modifications to the period set out in subsection (1).

Complaint about decision to give access

34(4) If the head of the public body decides to give access to the record or part of the record, the notice under subsection (2) must state that the applicant will be given access unless the third party makes a complaint to the Ombudsman under Part 5 within 21 days after the notice is given.

Complaint about decision to refuse access

34(5) If the head of the public body decides not to give access to the record or part of the record, the notice under subsection (2) must state that the applicant may make a complaint to the Ombudsman under Part 5 within 21 days after the notice is given.

Décision dans les 30 jours

34(1) Dans les 30 jours suivant la transmission de l'avis prévu au paragraphe 33(1), le responsable de l'organisme public prend une décision quant à la communication totale ou partielle du document. Toutefois, il ne peut prendre sa décision que :

a) 21 jours après la transmission de l'avis;

b) le jour où il reçoit une réponse du tiers, si cette éventualité se réalise la première.

Avis de décision

34(2) Dès qu'il prend une décision, le responsable de l'organisme public en donne, par écrit, avis à l'auteur de la demande et au tiers, lequel avis comprend les motifs de la décision.

Prorogation du délai

34(3) Le paragraphe 15(1) s'applique, avec les adaptations nécessaires, au délai prévu au paragraphe (1).

Plainte concernant la communication

34(4) L'avis d'une décision de donner communication totale ou partielle du document mentionne que l'auteur de la demande se fera donner communication à moins que, dans les 21 jours suivant sa transmission, le tiers ne dépose une plainte auprès de l'ombudsman en vertu de la partie 5.

Plainte concernant un refus de communication

34(5) L'avis d'une décision de refuser de donner communication totale ou partielle du document mentionne que l'auteur de la demande peut, dans les 21 jours suivant sa transmission, déposer une plainte auprès de l'ombudsman en vertu de la partie 5.

PART 3

PROTECTION OF PRIVACY

DIVISION 1

APPLICATION OF THIS PART

Part does not apply to personal health information
35 This Part does not apply to personal health information to which *The Personal Health Information Act* applies.

DIVISION 2

COLLECTION, CORRECTION AND RETENTION OF PERSONAL INFORMATION

COLLECTION OF INFORMATION

Purpose of collection of information
36(1) No personal information may be collected by or for a public body unless

(a) collection of the information is authorized by or under an enactment of Manitoba or of Canada;

(b) the information relates directly to and is necessary for an existing program or activity of the public body; or

(c) the information is collected for law enforcement purposes or crime prevention.

Limit on amount of information collected
36(2) A public body shall collect only as much personal information about an individual as is reasonably necessary to accomplish the purpose for which it is collected.

PARTIE 3

PROTECTION DE LA VIE PRIVÉE

SECTION 1

APPLICATION DE LA PRÉSENTE PARTIE

Application de la présente partie
35 La présente partie ne s'applique pas aux renseignements médicaux personnels que vise la *Loi sur les renseignements médicaux personnels*.

SECTION 2

COLLECTE, CORRECTION ET CONSERVATION DES RENSEIGNEMENTS PERSONNELS

COLLECTE DES RENSEIGNEMENTS

Fins de la collecte de renseignements
36(1) La collecte de renseignements personnels par ou pour un organisme public ne peut avoir lieu que dans les cas suivants :

a) elle est expressément autorisée en vertu d'un texte provincial ou fédéral;

b) les renseignements ont directement trait et sont nécessaires aux activités ou aux programmes existants de l'organisme public;

c) les renseignements sont recueillis aux fins de l'exécution de la loi ou de la prévention du crime.

Nombre de renseignements recueillis
36(2) L'organisme public ne recueille que le nombre de renseignements personnels concernant un particulier nécessaire à la réalisation des fins auxquelles ils sont destinés.

Manner of collection
37(1) Personal information must be collected by or for a public body directly from the individual the information is about unless

(a) another method of collection is authorized by that individual, or by an enactment of Manitoba or Canada;

(b) collection of the information directly from the individual could reasonably be expected to cause harm to the individual or to another person;

(c) collection of the information is in the interest of the individual and time or circumstances do not permit collection directly from the individual;

(d) collection of the information directly from the individual could reasonably be expected to result in inaccurate information being collected;

(e) the information may be disclosed to the public body under Division 3 of this Part;

(f) the information is collected for inclusion in a public registry;

(g) the information is collected for law enforcement purposes or crime prevention;

(h) the information is collected for the purpose of existing or anticipated legal proceedings to which the Government of Manitoba or the public body is a party;

(i) the information is collected for use in providing legal advice or legal services to the Government of Manitoba or the public body;

(j) the information concerns

(i) the history, release or supervision of an individual in the custody of or under the control or supervision of a correctional authority, or

(ii) the security of a correctional institution;

Mode de collecte
37(1) La collecte de renseignements personnels par ou pour un organisme public se fait auprès du particulier concerné lui-même, sauf si :

a) un autre mode de collecte est autorisé par ce particulier ou un texte provincial ou fédéral;

b) la collecte des renseignements directement auprès du particulier pourrait vraisemblablement lui nuire ou nuire à autrui;

c) la collecte des renseignements sert l'intérêt du particulier, et le temps ou les circonstances ne permettent pas leur collecte directement auprès de lui;

d) des renseignements inexacts pourraient vraisemblablement être recueillis dans un tel cas;

e) les renseignements peuvent être communiqués à l'organisme public en vertu de la section 3 de la présente partie;

f) les renseignements sont recueillis afin d'être inclus dans un registre public;

g) les renseignements sont recueillis aux fins de l'exécution de la loi ou de la prévention du crime;

h) les renseignements sont recueillis aux fins de la conduite d'instances judiciaires en cours ou prévues, auxquelles est partie le gouvernement du Manitoba ou l'organisme public;

i) les renseignements sont recueillis aux fins de leur utilisation dans le cadre de la fourniture de conseils ou de services juridiques au gouvernement du Manitoba ou à l'organisme public;

j) les renseignements ont trait :

(i) aux antécédents, à la mise en liberté ou à la surveillance d'un particulier confié à la garde ou à la surveillance d'une administration correctionnelle,

(ii) à la sécurité d'un établissement correctionnel;

(k) the information is collected for the purpose of enforcing a maintenance order under *The Family Maintenance Act*;

(l) the information is collected for the purpose of informing The Public Trustee or the Vulnerable Persons Commissioner about clients or potential clients;

(m) the information is collected for the purpose of

(i) determining the eligibility of an individual to participate in a program of or receive a benefit or service from the Government of Manitoba or the public body and is collected in the course of processing an application made by or on behalf of the individual the information is about, or

(ii) verifying the eligibility of an individual who is participating in a program of or receiving a benefit or service from the Government of Manitoba or the public body;

(n) the information is collected for the purpose of

(i) determining the amount of or collecting a fine, debt, tax or payment owing to the Government of Manitoba or the public body, or an assignee of either of them, or

(ii) making a payment;

(o) the information is collected for the purpose of managing or administering personnel of the Government of Manitoba or the public body;

(p) the information is collected for the purpose of auditing, monitoring or evaluating the activities of the Government of Manitoba or the public body; or

(q) the information is collected for the purpose of determining suitability for an honour or award, including an honourary degree, scholarship, prize or bursary.

k) les renseignements sont recueillis aux fins de l'exécution d'une ordonnance alimentaire en vertu de la *Loi sur l'obligation alimentaire*;

l) les renseignements sont recueillis afin que soit informé le curateur public ou le commissaire aux personnes vulnérables au sujet de clients actuels ou éventuels;

m) les renseignements sont recueillis afin qu'il soit possible :

(i) soit de déterminer si un particulier peut participer à un programme ou recevoir un avantage ou un service du gouvernement du Manitoba ou de l'organisme public et sont recueillis dans le cadre du traitement d'une demande présentée par ou pour le particulier qu'ils concernent,

(ii) soit de vérifier l'admissibilité d'un particulier qui participe à un programme ou qui reçoit un avantage ou un service du gouvernement du Manitoba ou de l'organisme public;

n) les renseignements sont recueillis aux fins :

(i) soit de la détermination d'une somme due au gouvernement du Manitoba ou à l'organisme public, ou à un de ses cessionnaires, ou de la perception de cette somme,

(ii) soit du versement d'une somme;

o) les renseignements sont recueillis aux fins de la gestion du personnel du gouvernement du Manitoba ou de l'organisme public;

p) les renseignements sont recueillis aux fins de l'examen, de la surveillance ou de l'évaluation des activités du gouvernement du Manitoba ou de l'organisme public;

q) les renseignements sont recueillis aux fins de la détermination des candidats possibles à une distinction ou à un prix, y compris un diplôme, une bourse ou un prix honorifique.

Individual must be informed
37(2) A public body that collects personal information directly from the individual the information is about shall inform the individual of

(a) the purpose for which the information is collected;

(b) the legal authority for the collection; and

(c) the title, business address and telephone number of an officer or employee of the public body who can answer the individual's questions about the collection.

When notice not required
37(3) A public body need not comply with subsection (2) if it has recently provided the individual with the information referred to in that subsection about the collection of the same or similar personal information for the same or a related purpose.

ACCURACY OF INFORMATION

Accuracy of personal information
38 If personal information about an individual will be used by a public body to make a decision that directly affects the individual, the public body shall take reasonable steps to ensure that the information is accurate and complete.

CORRECTION OF INFORMATION

Right to request correction
39(1) An applicant who has been given access to a record containing his or her personal information under Part 2 and who believes there is an error or omission in the information may request the head of the public body that has the information in its custody or under its control to correct the information.

Avis à l'intéressé
37(2) L'organisme public qui recueille des renseignements personnels directement auprès du particulier qu'ils concernent informe celui-ci :

a) des fins auxquelles ils sont destinés;

b) de la disposition législative permettant leur collecte;

c) du titre, de l'adresse du bureau ainsi que du numéro de téléphone d'un cadre ou d'un employé de l'organisme public qui peut le renseigner au sujet de la collecte.

Avis non nécessaire
37(3) L'organisme public n'est pas tenu d'observer le paragraphe (2) s'il a récemment fourni au particulier les renseignements énoncés à ce paragraphe au sujet de la collecte de renseignements personnels identiques ou similaires à des fins identiques ou connexes.

EXACTITUDE DES RENSEIGNEMENTS

Exactitude des renseignements personnels
38 L'organisme public qui entend utiliser des renseignements personnels concernant un particulier afin de prendre une décision qui touche celui-ci directement prend les mesures voulues pour faire en sorte que les renseignements soient exacts et complets.

CORRECTION DES RENSEIGNEMENTS

Droit de faire corriger les renseignements
39(1) L'auteur d'une demande qui s'est vu donner communication d'un document contenant ses renseignements personnels sous le régime de la partie 2 et qui croit que les renseignements sont erronés ou incomplets peut demander leur correction au responsable de l'organisme public de qui ils relèvent.

Written request
39(2) A request must be in writing.

Head's response
39(3) Within 30 days after receiving a request under subsection (1), the head of the public body shall

(a) make the requested correction and notify the applicant of the correction; or

(b) notify the applicant of the head's refusal to correct the record and the reason for the refusal, that the request for correction has been added to the record, and that the individual has a right to make a complaint about the refusal under Part 5.

Extended time limit
39(4) Subsection 15(1) applies with necessary modifications to the period set out in subsection (3).

Notice to others
39(5) On correcting a record or adding a request for correction to a record under this section, the head of the public body shall, where practicable, notify any other public body or third party to whom the information has been disclosed during the year before the correction was requested that the correction has been made or a request for correction has been added.

Correction required
39(6) On being notified under subsection (5) of a correction or request for correction, a public body must make the correction or add the request for correction to any record of that information in its custody or under its control.

RETENTION OF INFORMATION

Retention of personal information
40(1) A public body that uses personal information about an individual to make a decision that directly affects the individual shall, in the absence of another legal requirement to do so, establish and comply with a written policy concerning the retention of the personal information.

Demande écrite
39(2) La demande est présentée par écrit.

Réponse du responsable
39(3) Dans les 30 jours suivant la réception de la demande que vise le paragraphe (1), le responsable de l'organisme public :

a) effectue la correction demandée et en avise l'auteur de la demande;

b) avise l'auteur de la demande de son refus de corriger le document, du motif du refus, de l'ajout de la demande de correction au document et du droit du particulier de déposer une plainte au sujet du refus en vertu de la partie 5.

Prorogation du délai
39(4) Le paragraphe 15(1) s'applique, avec les adaptations nécessaires, à la période prévue au paragraphe (3).

Avis donné à d'autres organismes publics ou tiers
39(5) Dès qu'une correction est apportée à un document ou qu'une demande de correction est ajoutée à un document sous le régime du présent article, le responsable de l'organisme public est tenu, si la chose est possible du point de vue pratique, d'en aviser tout autre organisme public ou tiers auquel les renseignements ont été communiqués au cours de l'année précédant la demande de correction.

Correction obligatoire
39(6) Dès réception de l'avis prévu au paragraphe (5), l'organisme public fait la correction sur les documents qui contiennent les renseignements et qui relèvent de lui, ou y ajoute la demande de correction.

CONSERVATION DES RENSEIGNEMENTS

Conservation des renseignements personnels
40(1) L'organisme public qui utilise des renseignements personnels concernant un particulier afin de prendre une décision qui touche celui-ci directement est tenu, en l'absence de toute autre obligation légale en ce sens, d'établir et d'observer des directives écrites concernant la conservation de ces renseignements.

Content of retention policy
40(2) A policy under subsection (1) must

(a) require that personal information be retained for a reasonable period of time so that the individual the information is about has a reasonable opportunity to obtain access to it; and

(b) comply with any additional requirements set out in the regulations.

Protection of personal information
41 The head of a public body shall, in accordance with any requirements set out in the regulations, protect personal information by making reasonable security arrangements against such risks as unauthorized access, use, disclosure or destruction.

DIVISION 3

RESTRICTIONS ON USE AND DISCLOSURE OF PERSONAL INFORMATION

GENERAL DUTIES OF PUBLIC BODIES

General duty of public bodies
42(1) A public body shall not use or disclose personal information except as authorized under this Division.

Limit on amount of information used or disclosed
42(2) Every use and disclosure by a public body of personal information must be limited to the minimum amount of information necessary to accomplish the purpose for which it is used or disclosed.

Limit on employees
42(3) A public body shall limit the use and disclosure of personal information in its custody or under its control to those of its employees or agents who need to know the information to carry out the purpose for which the information was collected or received or to carry out a purpose authorized under section 43.

Contenu des directives
40(2) Les directives :

a) prévoient la conservation des renseignements personnels pendant une période suffisante afin de permettre au particulier concerné d'exercer son droit d'accès à ces renseignements;

b) respectent les autres exigences que fixent les règlements.

Protection des renseignements personnels
41 Le responsable d'un organisme public protège les renseignements personnels, en conformité avec les exigences que prévoient les règlements, en prenant les mesures de sécurité voulues contre des risques tels que l'accès, l'utilisation, la communication ou la destruction non autorisé.

SECTION 3

RESTRICTIONS QUANT À L'UTILISATION ET À LA COMMUNICATION DES RENSEIGNEMENTS PERSONNELS

OBLIGATIONS GÉNÉRALES DES ORGANISMES PUBLICS

Obligations générales des organismes publics
42(1) L'organisme public ne peut utiliser ou communiquer des renseignements personnels que dans la mesure prévue dans la présente section.

Nombre de renseignements
42(2) L'utilisation ou la communication par un organisme public de renseignements personnels se limite au nombre minimal de renseignements nécessaires à la réalisation de la fin à laquelle ils sont destinés.

Limite visant les employés
42(3) L'organisme public limite l'utilisation et la communication des renseignements personnels qui relèvent de lui à ceux de ses employés et mandataires qui doivent les connaître pour réaliser la fin à laquelle ils ont été recueillis ou reçus ou une des fins autorisées en vertu de l'article 43.

RESTRICTIONS ON USE OF INFORMATION

Use of personal information

43 A public body may use personal information only

(a) for the purpose for which the information was collected or compiled under subsection 36(1) or for a use consistent with that purpose under section 45;

(b) if the individual the information is about has consented to the use; or

(c) for a purpose for which that information may be disclosed to the public body under section 44, 46, 47 or 48 or for a use approved under section 46.

RESTRICTIONS ON DISCLOSURE OF INFORMATION

Disclosure of personal information

44(1) A public body may disclose personal information only

(a) for the purpose for which the information was collected or compiled under subsection 36(1) or for a use consistent with that purpose under section 45;

(b) if the individual the information is about has consented to its disclosure;

(c) in accordance with Part 2;

(d) for the purpose of complying with an enactment of Manitoba or Canada, or with a treaty, arrangement or agreement entered into under an enactment of Manitoba or Canada;

(e) in accordance with an enactment of Manitoba or Canada that authorizes or requires the disclosure;

RESTRICTIONS QUANT À L'UTILISATION DES RENSEIGNEMENTS

Utilisation des renseignements personnels

43 Les renseignements personnels ne peuvent servir à l'organisme public :

a) qu'aux fins auxquelles ils ont été recueillis ou préparés sous le régime du paragraphe 36(1) de même que pour les utilisations qui sont compatibles avec ces fins et que prévoit l'article 45;

b) que si le particulier qu'ils concernent a consenti à leur utilisation;

c) qu'aux fins auxquelles ils peuvent être communiqués à l'organisme public en vertu de l'article 44, 46, 47 ou 48 de même que pour les utilisations approuvées en vertu de l'article 46.

RESTRICTIONS QUANT À LA COMMUNICATION DES RENSEIGNEMENTS

Communication des renseignements personnels

44(1) L'organisme public ne peut communiquer des renseignements personnels :

a) qu'aux fins auxquelles ils ont été recueillis ou préparés sous le régime du paragraphe 36(1) de même que pour les utilisations qui sont compatibles avec ces fins et que prévoit l'article 45;

b) que si le particulier qu'ils concernent a consenti à leur communication;

c) qu'en conformité avec la partie 2;

d) qu'aux fins de l'observation d'un texte provincial ou fédéral ou d'un traité, d'un arrangement ou d'un accord conclu sous le régime d'un tel texte;

e) qu'en conformité avec un texte provincial ou fédéral qui permet ou exige la communication;

(f) to a minister or an elected official of the public body, if the information is necessary to carry out his or her responsibilities;

(g) for the purpose of managing or administering personnel of the Government of Manitoba or the public body;

(h) to the Provincial Auditor or any other person or body for audit purposes;

(i) to the Government of Canada in order to facilitate the monitoring, evaluation or auditing of shared cost programs or services;

(j) for the purpose of determining or verifying an individual's suitability or eligibility for a program, service or benefit;

(k) for the purpose of enforcing a maintenance order under *The Family Maintenance Act*;

(l) where necessary to protect the mental or physical health or the safety of any individual or group of individuals;

(m) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel the production of information or with a rule of court that relates to the production of information;

(n) for use in providing legal advice or legal services to the Government of Manitoba or the public body;

(o) for the purpose of enforcing a legal right that the Government of Manitoba or the public body has against any person;

(p) for the purpose of

f) qu'à un ministre ou à un représentant élu de l'organisme public qui en a besoin pour exercer ses attributions;

g) qu'aux fins de la gestion du personnel du gouvernement du Manitoba ou de l'organisme public;

h) qu'au vérificateur provincial ou qu'à une autre personne ou organisme pour vérification comptable;

i) qu'au gouvernement du Canada en vue de faciliter le contrôle, l'évaluation ou l'examen des programmes ou des services à frais partagés;

j) que pour permettre de déterminer ou de vérifier si un particulier peut participer à un programme ou recevoir un service ou un avantage ou y est admissible;

k) qu'aux fins de l'exécution d'une ordonnance alimentaire en vertu de la *Loi sur l'obligation alimentaire*;

l) que dans les cas où cela est nécessaire pour la protection de la santé physique ou mentale ou de la sécurité d'un particulier ou d'un groupe de particuliers;

m) qu'aux fins de l'observation d'un subpoena, d'un mandat, d'une ordonnance ou d'un ordre émanant d'un tribunal, d'une personne ou d'un organisme ayant le pouvoir de contraindre à la production de renseignements ou de l'observation de règles de procédure se rapportant à la production de renseignements;

n) qu'aux fins de leur utilisation dans la fourniture de conseils ou de services juridiques destinés au gouvernement du Manitoba ou à l'organisme public;

o) qu'aux fins de l'exercice d'un droit découlant de la loi que possède contre une personne le gouvernement du Manitoba ou l'organisme public;

p) qu'aux fins :

(i) determining the amount of or collecting a fine, debt, tax or payment owing by an individual to the Government of Manitoba or to the public body, or to an assignee of either of them, or

(ii) making a payment;

(q) for use in existing or anticipated legal proceedings to which the Government of Manitoba or the public body is a party;

(r) for law enforcement purposes or crime prevention;

(s) if the public body is a law enforcement agency and the information is disclosed to

(i) another law enforcement agency in Canada, or

(ii) a law enforcement agency in a foreign country under an arrangement, written agreement, treaty or legislative authority;

(t) for the purpose of supervising an individual in the custody of or under the control or supervision of a correctional authority;

(u) where disclosure is necessary for the security of a correctional institution;

(v) by transfer to the Provincial Archives of Manitoba or to the archives of the public body for records management or archival purposes;

(w) to an officer of the Legislature, if the information is necessary for the performance of the duties of that officer;

(x) to an expert for the purposes of clause 24(b);

(y) for the purpose of

(i) contacting a relative or friend of an individual who is injured, incapacitated or ill,

(i) soit de la détermination d'une somme due au gouvernement du Manitoba ou à l'organisme public, ou à un de ses cessionnaires, ou de la perception de cette somme,

(ii) soit du versement d'une somme;

q) qu'aux fins de leur utilisation dans la conduite d'instances judiciaires en cours ou prévues auxquelles est partie le gouvernement du Manitoba ou l'organisme public;

r) qu'aux fins de l'exécution de la loi ou de la prévention du crime;

s) que si l'organisme public est un organisme chargé de l'exécution de la loi et que si les renseignements sont communiqués :

(i) à un autre organisme chargé de l'exécution de la loi au Canada,

(ii) à un organisme chargé de l'exécution de la loi dans un pays étranger en vertu d'un arrangement, d'un accord écrit, d'un traité ou d'une disposition législative;

t) qu'aux fins de la surveillance d'un particulier confié à la garde ou à la surveillance d'une administration correctionnelle;

u) que si leur communication est nécessaire à la sécurité d'un établissement correctionnel;

v) que par transfert aux Archives provinciales du Manitoba ou aux archives de l'organisme public pour gestion de documents ou pour dépôt;

w) qu'à un fonctionnaire de l'Assemblée législative, si les renseignements sont nécessaires à l'exercice de ses activités;

x) qu'à un spécialiste pour l'application de l'alinéa 24b);

y) qu'afin que soit :

(i) contacté un parent ou un ami d'un particulier blessé, atteint d'une incapacité ou malade,

(ii) assisting in identifying a deceased individual, or

(iii) informing the representative or a relative of a deceased individual, or any other person it is reasonable to inform in the circumstances, of the individual's death;

(z) to a relative of a deceased individual if the head of the public body reasonably believes that disclosure is not an unreasonable invasion of the deceased's privacy;

(aa) subject to subsection (2), to a person providing information technology services to or for the public body;

(bb) when the information is available to the public; or

(cc) in accordance with sections 46, 47 or 48.

Agreement for information technology services

44(2) When a public body intends to disclose personal information to a provider of information technology services under clause (1)(aa), the public body shall enter into a written agreement with the provider for the protection of the personal information against such risks as unauthorized access, use, disclosure or destruction.

Consistent purposes

45 For the purpose of clauses 43(a) and 44(1)(a), a use or disclosure of personal information is consistent with the purpose for which the information was collected or compiled if the use or disclosure

(a) has a reasonable and direct connection to that purpose; and

(b) is necessary for performing the statutory duties of, or for operating an authorized program or carrying out an activity of, the public body that uses or discloses the information.

(ii) facilitée l'identification d'un défunt,

(iii) informé le représentant ou un parent d'un particulier, ou toute autre personne qu'il est opportun d'informer dans les circonstances, du décès du particulier;

z) qu'à un parent d'un particulier décédé si le responsable de l'organisme public croit pour des motifs raisonnables que la communication ne constitue pas une atteinte injustifiée à la vie privée du défunt;

aa) sous réserve du paragraphe (2), qu'à une personne qui fournit des services de technologie de l'information à l'organisme public ou pour lui;

bb) que si les renseignements sont à la disposition du public;

cc) qu'en conformité avec les articles 46, 47 et 48.

Accord de services de technologie de l'information

44(2) L'organisme public qui a l'intention de communiquer des renseignements personnels à un fournisseur de services de technologie de l'information en vertu de l'alinéa (1)aa) conclut un accord écrit avec le fournisseur en vue de la protection des renseignements contre des risques tels que l'accès, l'utilisation, la communication ou la destruction non autorisé.

Fins compatibles

45 Pour l'application des alinéas 43a) et 44(1)a), l'utilisation ou la communication des renseignements personnels est compatible avec la fin à laquelle ils ont été recueillis ou préparés si cet usage ou cette communication :

a) a un lien suffisant et direct avec cette fin;

b) est nécessaire soit à l'exercice des obligations légales de l'organisme public qui les utilise ou les communique, soit à l'administration d'un des programmes autorisés de cet organisme, soit à l'exercice d'une de ses activités.

Application
46(1) This section applies only to uses and disclosures not otherwise authorized under this Division.

Assessment required for other uses and disclosures
46(2) When a public body

(a) proposes to use or disclose personal information in order to link information databases or match personal information in one information database with information in another; or

(b) receives a request for disclosure on a volume or bulk basis of personal information in a public registry or another collection of personal information;

the personal information may be used or disclosed only if an approval is given by the head of the public body under this section.

Government must refer to review committee
46(3) If a proposal or request is made under subsection (2) by or to a department or a government agency, the head must refer it to the review committee for its advice.

Local public body may refer to review committee
46(4) If a proposal or request is made under subsection (2) by or to a local public body, the head may refer it to the review committee for its advice.

Review committee to provide advice
46(5) The review committee shall assess a proposal or request referred to it under this section and provide advice to the head of the public body about the matters referred to in subsection (6).

Conditions of approval
46(6) The head may approve the proposal or request only if

(a) any advice that was requested from the review committee has been received and considered;

(b) the head is satisfied that

Application
46(1) Le présent article ne s'applique qu'aux utilisations et qu'aux communications que la présente section n'autorise pas autrement.

Évaluation des autres utilisations ou communications
46(2) L'organisme public qui ou bien projette d'utiliser ou de communiquer des renseignements personnels en vue du couplage de banques de renseignements ou de l'appariement de renseignements personnels se trouvant dans deux banques de renseignements ou bien reçoit une demande de communication en nombre de renseignements personnels se trouvant dans un registre public ou dans un autre recueil de renseignements personnels ne peut les utiliser ou les communiquer qu'avec l'approbation de son responsable.

Renvoi au Comité d'évaluation
46(3) Si un ministère ou un organisme gouvernemental est l'auteur ou le destinataire du projet ou de la demande, le responsable renvoie la demande au Comité d'évaluation pour obtenir son avis.

Renvoi facultatif
46(4) Si un organisme public local est l'auteur ou le destinataire du projet ou de la demande, le responsable peut renvoyer la demande au Comité d'évaluation pour obtenir son avis.

Avis du Comité d'évaluation
46(5) Le Comité d'évaluation évalue le projet ou la demande dont il est saisi et fournit au responsable de l'organisme public son avis au sujet des questions que vise le paragraphe (6).

Conditions d'approbation
46(6) Le responsable ne peut approuver le projet ou la demande que si les conditions suivantes sont réunies :

a) l'avis demandé au Comité d'évaluation a été reçu et examiné;

b) le responsable est convaincu, à la fois :

(i) the purpose of the proposal or request cannot reasonably be accomplished unless the personal information is provided in a form that identifies individuals,

(ii) it is unreasonable or impractical to obtain consent from the individuals the personal information is about, and

(iii) the use or disclosure is not likely to harm the individuals the personal information is about and the benefits to be derived from the use or disclosure are clearly in the public interest;

(c) the head has approved conditions relating to

(i) the use of the personal information,

(ii) the protection of the personal information, including security and confidentiality,

(iii) the removal or destruction of individual identifiers at the earliest reasonable time, where appropriate, and

(iv) any subsequent use or disclosure of the personal information in a form that identifies individuals without the express written authorization of the public body; and

(d) the recipient of the personal information has entered into a written agreement to comply with the approved conditions.

Disclosure for research purposes

47(1) A public body may disclose personal information for a research purpose only in accordance with this section.

Referral to review committee

47(2) The head of a public body that receives a request for disclosure of personal information for a research purpose may refer the request to the review committee for its advice.

(i) que les fins visées par le projet ou la demande ne peuvent être normalement réalisées que si les renseignements personnels sont donnés sous une forme qui permette d'identifier des particuliers,

(ii) qu'il est déraisonnable ou peu pratique d'obtenir le consentement des particuliers que les renseignements personnels concernent,

(iii) que l'usage ou la communication ne risque pas de nuire aux particuliers que les renseignements personnels concernent et que les avantages qui en découlent servent nettement l'intérêt public;

c) le responsable a approuvé des conditions ayant trait aux questions suivantes :

(i) l'utilisation des renseignements personnels,

(ii) la protection des renseignements personnels, y compris la sécurité et la confidentialité,

(iii) le retrait ou la destruction des éléments permettant d'identifier des particuliers le plus tôt possible, si cela est indiqué,

(iv) l'utilisation ou la communication ultérieure des renseignements sous une forme permettant d'identifier des particuliers sans l'autorisation écrite expresse de cet organisme;

d) le destinataire des renseignements personnels a conclu un accord écrit en vertu duquel il s'engage à observer les conditions approuvées.

Communication pour des travaux de recherche

47(1) Un organisme public ne peut communiquer des renseignements personnels pour des travaux de recherche si ce n'est en conformité avec le présent article.

Renvoi au Comité d'évaluation

47(2) Le responsable d'un organisme public qui reçoit une demande de communication de renseignements personnels pour des travaux de recherche peut renvoyer la demande au Comité d'évaluation pour obtenir son avis.

Review committee to provide advice

47(3) The review committee shall assess the request and provide advice to the head of the public body about the matters referred to in subsection (4).

Conditions of disclosure

47(4) The head of the public body may disclose personal information for a research purpose only if

(a) any advice that was requested from the review committee has been received and considered;

(b) the head is satisfied that

(i) the personal information is requested for a *bona fide* research purpose,

(ii) the research purpose cannot reasonably be accomplished unless the personal information is provided in a form that identifies individuals,

(iii) it is unreasonable or impractical for the person proposing the research to obtain consent from the individuals the personal information is about, and

(iv) disclosure of the personal information, and any information linkage, is not likely to harm the individuals the information is about and the benefits to be derived from the research and any information linkage are clearly in the public interest;

(c) the head of the public body has approved conditions relating to

(i) the protection of the personal information, including use, security and confidentiality,

(ii) the removal or destruction of individual identifiers at the earliest reasonable time, and

Avis du Comité d'évaluation

47(3) Le Comité d'évaluation évalue la demande et fournit au responsable de l'organisme public son avis au sujet des questions que vise le paragraphe (4).

Conditions de communication

47(4) Le responsable de l'organisme public ne peut communiquer des renseignements personnels pour des travaux de recherche que si les conditions suivantes sont réunies :

a) l'avis demandé au Comité d'évaluation a été reçu et examiné;

b) le responsable est convaincu, à la fois :

(i) que les renseignements sont demandés pour des travaux de recherche véritables,

(ii) que les travaux de recherche ne peuvent être normalement réalisés que si les renseignements personnels sont donnés sous une forme qui permette d'identifier des particuliers,

(iii) qu'il est déraisonnable ou peu pratique pour la personne qui envisage d'effectuer les travaux de recherche d'obtenir le consentement des particuliers que les renseignements concernent,

(iv) que la communication des renseignements personnels et le couplage des renseignements ne risquent pas de nuire aux particuliers que les renseignements concernent et que les avantages qui découlent des travaux de recherche et du couplage servent nettement l'intérêt public;

c) le responsable de l'organisme public a approuvé des conditions ayant trait aux questions suivantes :

(i) la protection des renseignements personnels, y compris l'utilisation, la sécurité et la confidentialité,

(ii) le retrait ou la destruction des éléments permettant d'identifier des particuliers le plus tôt possible,

(iii) the prohibition of any subsequent use or disclosure of the personal information in a form that identifies individuals without the express written authorization of the public body; and

(d) the person to whom the personal information is disclosed has entered into a written agreement to comply with the approved conditions.

Disclosure of records more than 100 years old

48 The head of a public body or the archives of a public body may disclose personal information in a record that is more than 100 years old.

(iii) l'interdiction d'utiliser ou de communiquer ultérieurement les renseignements personnels sous une forme permettant d'identifier des particuliers sans l'autorisation écrite expresse de cet organisme;

d) la personne à qui les renseignements personnels sont communiqués a conclu un accord écrit en vertu duquel elle s'engage à observer les conditions approuvées.

Communication de documents datant de plus de 100 ans

48 Le responsable ou les archives d'un organisme public peuvent communiquer des renseignements personnels qui se trouvent dans un document datant de plus de 100 ans.

PART 4

POWERS AND DUTIES OF THE OMBUDSMAN

General powers and duties
49 In addition to the Ombudsman's powers and duties under Part 5 respecting complaints, the Ombudsman may

(a) conduct investigations and audits and make recommendations to monitor and ensure compliance

(i) with this Act and the regulations, and

(ii) with requirements respecting the security and destruction of records set out in any other enactment or in a by-law or other legal instrument by which a local public body acts;

(b) inform the public about this Act;

(c) receive comments from the public about the administration of this Act;

(d) comment on the implications for access to information or for protection of privacy of proposed legislative schemes or programs of public bodies;

(e) comment on the implications for protection of privacy of

(i) using or disclosing personal information for record linkage, or

(ii) using information technology in the collection, storage, use or transfer of personal information;

(f) bring to the attention of the head of a public body any failure to fulfil the duty to assist applicants;

(g) recommend to a public body, after giving the head an opportunity to make representations, that the public body

PARTIE 4

ATTRIBUTIONS DE L'OMBUDSMAN

Attributions générales
49 En plus des attributions qui lui sont conférées sous le régime de la partie 5 au sujet des plaintes, l'ombudsman peut :

a) procéder à des enquêtes et à des vérifications et faire des recommandations pour contrôler et garantir l'observation :

(i) de la présente loi et des règlements,

(ii) des exigences concernant la sécurité et la destruction des documents prévues dans tout autre texte ou dans un instrument juridique, notamment un règlement ou un règlement administratif, au moyen duquel un organisme public local agit;

b) renseigner le public au sujet de la présente loi;

c) recevoir les commentaires du public au sujet de l'application de la présente loi;

d) commenter les répercussions qu'ont sur l'accès aux renseignements ou sur la protection de la vie privée les projets législatifs ou programmes prévus des organismes publics;

e) commenter les répercussions qu'a sur la protection de la vie privée :

(i) soit l'utilisation ou la communication de renseignements personnels en vue du couplage de documents,

(ii) soit le recours à la technologie de l'information dans la collecte, le stockage, l'utilisation ou la transmission des renseignements personnels;

f) porter à la connaissance du responsable d'un organisme public tout manquement à l'obligation de prêter assistance aux auteurs de demandes;

g) recommander à un organisme public, après avoir donné à son responsable la possibilité de présenter des observations :

(i) cease or modify a specified practice of collecting, using or disclosing information that contravenes this Act, or

(ii) destroy a collection of personal information that was not collected in accordance with this Act;

(h) make recommendations to the head of a public body or the responsible minister about the administration of this Act;

(i) consult with any person with experience or expertise in any matter related to the purposes of this Act; and

(j) engage in or commission research into anything affecting the achievement of the purposes of this Act.

Evidence Act powers

50(1) The Ombudsman has all the powers and protections of a commissioner under Part V of *The Manitoba Evidence Act* when conducting an investigation under this Act.

Production of records

50(2) The Ombudsman may require any record in the custody or under the control of a public body that the Ombudsman considers relevant to an investigation to be produced to the Ombudsman and may examine any information in a record, including personal information.

Records to be produced within 14 days

50(3) A public body shall produce to the Ombudsman within 14 days any record or a copy of a record required under this section, despite any other enactment or any privilege of the law of evidence.

Examination of record on site

50(4) If a public body is required to produce a record under this section and it is not practicable to make a copy of it, the head of the public body may require the Ombudsman to examine the original at its site.

(i) de cesser ou de modifier une pratique qui est utilisée dans le cadre de la collecte, de l'usage ou de la communication de renseignements et qui contrevient à la présente loi,

(ii) de détruire des renseignements personnels qui n'ont pas été recueillis en conformité avec la présente loi;

h) faire des recommandations au responsable d'un organisme public ou au ministre responsable au sujet de l'application de la présente loi;

i) consulter toute personne ayant de l'expérience ou des compétences relativement aux questions liées aux objets de la présente loi;

j) procéder à des recherches sur des questions touchant la réalisation des objets de la présente loi ou mandater quelqu'un à cette fin.

Pouvoirs conférés par la *Loi sur la preuve*

50(1) L'ombudsman jouit des pouvoirs et de l'immunité que confère à un commissaire la partie V de la *Loi sur la preuve au Manitoba* lorsqu'il procède à une enquête sous le régime de la présente loi.

Production de documents

50(2) L'ombudsman peut exiger la production des documents qui relèvent d'un organisme public et qu'il estime utiles à une enquête, et il peut examiner les renseignements qu'ils contiennent, y compris les renseignements personnels.

Délai de production

50(3) Malgré tout autre texte ou toute immunité reconnue par le droit de la preuve, l'organisme public produit à l'ombudsman, dans les 14 jours, les documents ou une copie des documents exigés en vertu du présent article.

Examen des documents sur place

50(4) Si l'organisme public ne peut, du point de vue pratique, faire une copie des documents qu'il est tenu de produire, son responsable peut exiger que l'ombudsman examine les originaux sur place.

Right of entry

51 Despite any other enactment or any privilege of the law of evidence, in exercising powers or performing duties under this Act, the Ombudsman has the right

(a) to enter any office of a public body and examine and make copies of any record in the custody of the public body; and

(b) to converse in private with any officer or employee of a public body.

Investigation in private

52 The Ombudsman shall conduct every investigation in private.

Statements and reports not admissible in evidence

53(1) A statement made or an answer given by a person during an investigation by the Ombudsman, and a report or recommendation of the Ombudsman, is inadmissible in evidence in a court or in any other proceeding, except

(a) in a prosecution for perjury in respect of sworn testimony;

(b) in a prosecution for an offence under this Act; or

(c) in an appeal to the court under this Act, when the Ombudsman is a party.

Not compellable as witness

53(2) The Ombudsman, and anyone acting for or under the direction of the Ombudsman, shall not be required to give evidence in a court or in any other proceeding about information that comes to the knowledge of the Ombudsman in performing duties or exercising powers under this Act.

Information provided under qualified privilege

54 Anything said, any information supplied, and any record produced by a person during an investigation by the Ombudsman under this Act is privileged in the same manner as if it were said, supplied or produced in a proceeding in a court.

Droit d'entrée

51 Malgré tout autre texte ou toute immunité reconnue par le droit de la preuve, dans l'exercice des attributions que lui confère la présente loi, l'ombudsman a le droit :

a) de pénétrer dans les bureaux d'un organisme public et d'examiner ainsi que de reproduire les documents dont celui-ci a la garde;

b) de s'entretenir en privé avec les cadres ou les employés d'un organisme public.

Enquêtes à huis clos

52 Les enquêtes de l'ombudsman se déroulent à huis clos.

Admissibilité en preuve

53(1) Les déclarations que fait et les réponses que donne une personne au cours d'une enquête de même que les rapports et les recommandations de l'ombudsman sont inadmissibles en preuve devant un tribunal ou dans le cadre de toute autre instance :

a) qu'une poursuite pour parjure;

b) qu'une poursuite pour infraction à la présente loi;

c) qu'un appel qui est interjeté devant le tribunal en vertu de la présente loi et auquel est partie l'ombudsman.

Non-assignation de l'ombudsman

53(2) L'ombudsman et les personnes qui agissent pour lui ou sous son autorité ne peuvent être tenues de témoigner devant un tribunal ou dans le cadre de toute autre instance au sujet des renseignements qui sont portés à la connaissance de l'ombudsman dans l'exercice des attributions prévues par la présente loi.

Immunité relative

54 Les paroles prononcées, les renseignements fournis et les documents produits par une personne au cours d'une enquête menée par l'ombudsman sous le régime de la présente loi sont privilégiés de la même manière que dans le cas d'une instance devant un tribunal.

Ombudsman restricted as to disclosure of information

55(1) The Ombudsman, and anyone acting for or under the direction of the Ombudsman, shall not disclose information obtained in performing duties or exercising powers under this Act, except as provided in subsections (2) to (5).

When disclosure permitted

55(2) The Ombudsman may disclose, or may authorize anyone acting for or under the direction of the Ombudsman to disclose, information that is necessary to

(a) perform a duty or exercise a power of the Ombudsman under this Act; or

(b) establish the grounds for findings and recommendations contained in a report under this Act.

Reasonable precautions to avoid disclosure

55(3) In conducting an investigation and in performing any other duty or exercising any power under this Act, the Ombudsman, and anyone acting for or under the direction of the Ombudsman, shall take every reasonable precaution to avoid disclosing and shall not disclose

(a) any information the head of a public body is authorized or required to refuse to disclose under Part 2; or

(b) whether information exists, if the head of a public body is authorized to refuse to confirm or deny that the information exists under subsection 12(2).

Information about offences

55(4) The Ombudsman may disclose to the Minister of Justice and Attorney General information relating to the commission of an offence under this or any other enactment of Manitoba or Canada if the Ombudsman considers there is reason to believe an offence has been committed.

Restriction quant à la communication de renseignements

55(1) L'ombudsman et les personnes qui agissent pour lui ou sous son autorité ne peuvent divulguer les renseignements obtenus dans l'exercice des attributions prévues par la présente loi si ce n'est en conformité avec les paragraphes (2) à (5).

Divulgation permise

55(2) L'ombudsman peut divulguer les renseignements nécessaires :

a) à l'exercice des attributions que lui confère la présente loi;

b) à l'établissement des motifs étayant les conclusions et les recommandations que contient un rapport visé par la présente loi.

Il peut également autoriser toute personne qui agit pour lui ou sous son autorité à le faire.

Précautions

55(3) Dans la tenue d'une enquête et dans l'exercice de toute autre attribution prévue par la présente loi, l'ombudsman et les personnes qui agissent pour lui ou sous son autorité prennent toutes les précautions possibles pour éviter de divulguer et ne peuvent divulguer :

a) des renseignements que le responsable d'un organisme public peut ou doit refuser de communiquer sous le régime de la partie 2;

b) le fait qu'existent des renseignements, si le responsable d'un organisme public est autorisé à refuser d'indiquer s'ils existaient ou non en vertu du paragraphe 12(2).

Renseignements touchant la perpétration d'infractions

55(4) Dans les cas où il estime qu'il existe des motifs de croire qu'a été commise une infraction à la présente loi ou à tout autre texte provincial ou fédéral, l'ombudsman peut faire part au ministre de la Justice et procureur général des renseignements qu'il détient à cet égard.

Information relating to a prosecution or appeal
55(5) The Ombudsman may disclose, or may authorize anyone acting for or under the direction of the Ombudsman to disclose, information in the course of a prosecution or an appeal referred to in subsection 53(1).

Delegation
56 The Ombudsman may delegate to any person on his or her staff any duty or power under this Act.

Protection from liability
57 No proceedings lie against the Ombudsman, or against any person acting for or under the direction of the Ombudsman, for anything done, reported or said in good faith in the exercise or performance or the intended exercise or performance of a duty or power under this Act.

Annual report
58(1) The Ombudsman shall make an annual report to the Legislative Assembly on

(a) the work of the Ombudsman's office in relation to this Act;

(b) the Ombudsman's recommendations and whether public bodies have complied with the recommendations;

(c) any complaints or investigations resulting from a decision, act or failure to act; and

(d) any other matters about access to information and protection of privacy that the Ombudsman considers appropriate.

Report to be laid before Legislative Assembly
58(2) The report shall be given to the Speaker who shall lay it before the Legislative Assembly if it is in session and if it is not in session, then within 15 days after the beginning of the next session.

Special report
58(3) In the public interest, the Ombudsman may publish a special report relating to any matter within the scope of the powers and duties of the Ombudsman under this Act, including a report referring to and commenting on any particular matter investigated by the Ombudsman.

Renseignements relatifs à une poursuite ou à un appel
55(5) L'ombudsman peut divulguer des renseignements dans le cadre d'une poursuite ou d'un appel que vise le paragraphe 53(1) et peut autoriser toute personne qui agit pour lui ou sous son autorité à le faire.

Délégation
56 L'ombudsman peut déléguer à tout membre de son personnel les attributions que lui confère la présente loi.

Immunité
57 L'ombudsman et les personnes qui agissent pour lui ou sous son autorité bénéficient de l'immunité pour ce qui est fait, relaté ou dit de bonne foi dans l'exercice effectif ou censé tel des attributions prévues par la présente loi.

Rapport annuel
58(1) L'ombudsman présente à l'Assemblée législative un rapport annuel sur :

a) les activités de son bureau qui ont trait à la présente loi;

b) ses recommandations et sur la question de savoir si les organismes publics ont donné suite à celles-ci;

c) les plaintes ou les enquêtes découlant d'une décision, d'un acte ou d'une omission;

d) les autres questions touchant l'accès à l'information et la protection de la vie privée qu'il estime indiquées.

Dépôt du rapport
58(2) Le rapport est remis au président; celui-ci le dépose devant l'Assemblée législative immédiatement ou, si elle ne siège pas, dans les 15 premiers jours de séance ultérieurs.

Rapport spécial
58(3) L'ombudsman peut, dans l'intérêt public, publier un rapport spécial ayant trait à une question relevant de ses attributions, y compris un rapport dans lequel il fait référence à une affaire sur laquelle il a mené une enquête et commente cette affaire.

PART 5

COMPLAINTS

MAKING A COMPLAINT

Right to make a complaint about access

59(1) A person who has requested access to a record under Part 2 of this Act may make a complaint to the Ombudsman about any decision, act or failure to act of the head that relates to the request, including a refusal to make a correction under section 39.

Complaint by a third party about access

59(2) A third party notified under section 33 of a decision by the head of a public body to give access may make a complaint to the Ombudsman about the decision.

Complaint about privacy

59(3) An individual who believes that his or her own personal information has been collected, used or disclosed in violation of Part 3 may make a complaint to the Ombudsman.

Complaint by relative of deceased

59(4) A relative of a deceased individual may make a complaint to the Ombudsman about a decision of a head of a public body not to disclose personal information under clause 44(1)(z).

Ombudsman may initiate a complaint

59(5) The Ombudsman may initiate a complaint respecting any matter about which the Ombudsman is satisfied there are reasonable grounds to investigate under this Act.

How to make a complaint

60(1) A complaint to the Ombudsman must be in the prescribed form.

PARTIE 5

PLAINTES

DÉPÔT DES PLAINTES

Plainte concernant l'accès

59(1) La personne qui a demandé la communication d'un document en vertu de la partie 2 peut déposer une plainte auprès de l'ombudsman au sujet d'une décision, d'un acte ou d'une omission du responsable ayant trait à la demande, y compris un refus d'effectuer une correction en application de l'article 39.

Plainte déposée par un tiers

59(2) Le tiers qui reçoit l'avis prévu à l'article 33 peut déposer une plainte auprès de l'ombudsman au sujet de la décision du responsable de l'organisme public de donner communication du document concerné.

Plainte concernant une atteinte à la vie privée

59(3) Le particulier qui croit que les renseignements personnels le concernant ont été recueillis, utilisés ou communiqués en contravention avec la partie 3 peut déposer une plainte auprès de l'ombudsman.

Plainte déposée par un parent du défunt

59(4) Un parent d'un défunt peut déposer une plainte auprès de l'ombudsman au sujet du refus du responsable d'un organisme public de lui communiquer les renseignements personnels sous le régime de l'alinéa 44(1)z).

Plainte émanant de l'ombudsman

59(5) L'ombudsman peut lui-même prendre l'initiative d'une plainte s'il a des motifs raisonnables de croire qu'une enquête devrait être menée relativement à une question sous le régime de la présente loi.

Modalités de la plainte

60(1) La plainte déposée auprès de l'ombudsman revêt la forme réglementaire.

60-day time limit

60(2) A complaint under subsection 59(1) or (4) must be delivered to the Ombudsman within 60 days after the person complaining is notified of the decision, unless the complaint relates to a decision under subsection 34(5).

120-day time limit for failure to respond

60(3) If the head of a public body fails to respond in time to a request for access to a record, the failure is to be treated as a decision to refuse access, in which case the complaint must be delivered to the Ombudsman within 120 days after the request for access was made.

Notifying others of a complaint

61 As soon as practicable after receiving a complaint, the Ombudsman shall notify the head of the public body concerned and any other person who, in the Ombudsman's opinion, is affected by it.

INVESTIGATION

Investigation

62(1) Subject to section 63, on receiving a complaint the Ombudsman shall investigate it.

Informal resolution

62(2) The Ombudsman may take any steps the Ombudsman considers appropriate to resolve a complaint informally to the satisfaction of the parties and in a manner consistent with the purposes of this Act.

Decision to not deal with a complaint

63(1) The Ombudsman may decide not to investigate a complaint if the Ombudsman is of the opinion that,

(a) in the case of a complaint about privacy referred to in subsection 59(3), the length of time that has elapsed since the date the subject matter of the complaint arose makes an investigation no longer practicable or desirable;

Délai

60(2) Sauf si elle a trait à la décision mentionnée au paragraphe 34(5), la plainte que vise le paragraphe 59(1) ou (4) est déposée auprès de l'ombudsman dans les 60 jours suivant la date à laquelle le plaignant est avisé de la décision.

Délai de 120 jours en cas de défaut de répondre

60(3) Si le responsable d'un organisme public omet de répondre à une demande de communication d'un document à l'intérieur du délai prévu, l'omission est réputée être un refus de donner communication, auquel cas la plainte est déposée auprès de l'ombudsman dans les 120 jours suivant la demande de communication.

Avis aux autres personnes touchées

61 Dès que possible après qu'il a reçu une plainte, l'ombudsman en avise le responsable de l'organisme public concerné et toute autre personne qui, selon lui, est touchée.

ENQUÊTE

Enquête

62(1) Sous réserve de l'article 63, l'ombudsman enquête immédiatement sur toute plainte dont il est saisi.

Règlement informel

62(2) L'ombudsman peut prendre les mesures qu'il estime indiquées pour en arriver à un règlement informel de la plainte d'une manière satisfaisante pour les parties et conforme aux objets de la présente loi.

Refus de donner suite à une plainte

63(1) L'ombudsman peut décider de ne pas enquêter sur une plainte s'il est d'avis :

a) ou bien, dans le cas d'une plainte que vise le paragraphe 59(3), qu'une enquête n'est plus faisable ni souhaitable en raison du délai qui s'est écoulé depuis la date à laquelle a pris naissance l'objet de la plainte;

(b) the subject matter of the complaint is trivial or the complaint is not made in good faith or is frivolous or vexatious; or

(c) the circumstances of the complaint do not require investigation.

Notifying the complainant

63(2) The Ombudsman shall inform the complainant and the head of the public body in writing if he or she decides not to investigate a complaint, and give reasons for the decision.

Representations to the Ombudsman

64(1) During an investigation, the Ombudsman shall give the complainant and the head of the public body concerned an opportunity to make representations to the Ombudsman. The Ombudsman may also give any other person who has been notified of the complaint under section 61 an opportunity to make representations. However, no one is entitled to be present during an investigation or to have access to or to comment on representations made to the Ombudsman by another person.

Written or oral representations

64(2) The Ombudsman may decide whether representations are to be made orally or in writing.

Representations by counsel

64(3) Representations may be made to the Ombudsman through counsel or an agent.

90-day time limit for investigation

65 An investigation must be completed and a report made under section 66 within 90 days after a complaint is made, unless the Ombudsman

(a) notifies the complainant, the head of the public body and any other person who has made representations to the Ombudsman that the Ombudsman is extending that period; and

(b) gives an anticipated date for providing the report.

b) ou bien que l'objet de la plainte est futile ou que la plainte n'est pas déposée de bonne foi ou encore est frivole ou vexatoire;

c) ou bien que les circonstances entourant la plainte ne commandent pas la tenue d'une enquête.

Avis destiné au plaignant

63(2) L'ombudsman informe le plaignant et le responsable de l'organisme public par écrit de sa décision, le cas échéant, de ne pas enquêter sur une plainte, et il motive sa décision.

Droit de présenter des observations

64(1) Au cours de l'enquête, l'ombudsman donne au plaignant et au responsable de l'organisme public concerné la possibilité de présenter leurs observations; il peut également donner à toute autre personne qui a été avisée de la plainte en application de l'article 61 la possibilité de présenter ses observations. Toutefois, nul n'a le droit d'être présent au cours de l'enquête ni de recevoir communication des observations présentées à l'ombudsman ou de faire des commentaires à leur sujet.

Observations écrites ou orales

64(2) L'ombudsman peut décider si les observations se feront oralement ou par écrit.

Droit de se faire représenter par avocat

64(3) Les observations peuvent être présentées à l'ombudsman par l'intermédiaire d'un avocat ou d'un représentant.

Délai d'enquête

65 L'ombudsman termine son enquête et présente le rapport prévu à l'article 66 dans les 90 jours suivant le dépôt de la plainte, à moins :

a) d'une part, qu'il n'avise le plaignant, le responsable de l'organisme public et toute autre personne qui lui a présenté des observations de la prorogation du délai;

b) d'autre part, qu'il n'indique la date prévue de remise du rapport.

OMBUDSMAN'S REPORT ABOUT A COMPLAINT

Report
66(1) On completing an investigation of a complaint, the Ombudsman shall prepare a report containing the Ombudsman's findings about the complaint and any recommendations the Ombudsman considers appropriate respecting the complaint.

Report sent to complainant and others
66(2) The Ombudsman

(a) shall give a copy of the report to the complainant and the head of the public body concerned; and

(b) may give a copy of the report to any other person who has made representations to the Ombudsman.

Notice of right to appeal
66(3) If the Ombudsman finds that a complaint

(a) relating to the refusal of access to a record or part of a record; or

(b) by a third party notified under section 33 of a decision by the head of a public body to give access;

is unjustified, the report must include a notice to the complainant of the right to appeal the decision to the court under section 67, and of the time limit for an appeal.

Head's response to the report
66(4) If the report contains recommendations, the head of the public body shall, within 15 days after receiving the report, send the Ombudsman a written response indicating

(a) that the head accepts the recommendations and describing any action the head has taken or proposes to take to implement them; or

(b) the reasons why the head refuses to take action to implement the recommendations.

RAPPORT DE L'OMBUDSMAN

Rapport
66(1) Dès la fin de son enquête, l'ombudsman établit un rapport contenant ses conclusions et les recommandations qu'il estime appropriées au sujet de la plainte.

Envoi du rapport
66(2) L'ombudsman :

a) remet un exemplaire de son rapport au plaignant et au responsable de l'organisme public concerné;

b) peut remettre un exemplaire de son rapport aux autres personnes qui lui ont présenté des observations.

Droit d'interjeter appel
66(3) Si l'ombudsman conclut qu'est non fondée une plainte ayant trait au refus de donner communication totale ou partielle d'un document ou déposée par un tiers à qui a été remis l'avis prévu à l'article 33 au sujet de la décision du responsable d'un organisme public de donner communication d'un document, le rapport contient un avis informant le plaignant de son droit d'interjeter appel de la décision devant le tribunal en vertu de l'article 67 et du délai d'appel.

Réponse au rapport
66(4) Si le rapport contient des recommandations, le responsable de l'organisme public envoie à l'ombudsman, dans les 15 jours suivant la réception du rapport, une réponse écrite indiquant :

a) qu'il accepte les recommandations et faisant état des mesures qu'il a prises ou qu'il envisage de prendre pour leur mise en oeuvre;

b) les motifs invoqués pour ne pas donner suite aux recommandations.

Notice to the complainant

66(5) The Ombudsman shall notify the complainant about the head's response without delay. In the case of a response that indicates a refusal to take action on any of the Ombudsman's recommendations, the Ombudsman shall also, if the complainant has been refused access to a record or part of a record or is a third party notified under section 33 of a decision by the head of a public body to give access, inform the complainant

(a) that he or she may appeal the decision to the court under section 67 and of the time limit for an appeal; and

(b) if the Ombudsman so chooses, that the Ombudsman intends to appeal the decision to the court under section 68.

Avis au plaignant

66(5) L'ombudsman avise immédiatement le plaignant de la réponse du responsable. Si la réponse indique un refus de donner suite à ses recommandations, l'ombudsman doit également, si le plaignant s'est vu refuser la communication totale ou partielle d'un document ou est un tiers à qui a été remis l'avis prévu à l'article 33 au sujet de la décision du responsable d'un organisme public de donner communication d'un document, informer ce plaignant :

a) qu'il peut interjeter appel de la décision devant le tribunal en vertu de l'article 67 et du délai d'appel;

b) que lui-même a l'intention d'interjeter appel de la décision devant le tribunal en vertu de l'article 68.

Compliance with recommendations

66(6) When the head of a public body accepts the recommendations in a report, the head shall comply with the recommendations

(a) within 15 days of acceptance, if the complaint is about access under subsection 59(1), (2) or (4); and

(b) within 45 days in any other case;

or within such additional period as the Ombudsman considers reasonable.

Observation des recommandations

66(6) S'il accepte les recommandations que contient le rapport, le responsable de l'organisme public y donne suite dans les 15 jours suivant leur acceptation, dans le cas d'une plainte visée par le paragraphe 59(1), (2) ou (4) et dans les 45 jours dans les autres cas, ou dans le délai supplémentaire que l'ombudsman estime raisonnable.

APPEAL TO COURT

APPEL AU TRIBUNAL

Appeal to court

67(1) A person who

(a) has been refused access to a record or part of a record requested under subsection 8(1); or

(b) is a third party notified under section 33 of a decision by the head of a public body to give access;

may appeal the decision to the court.

Appel au tribunal

67(1) Peut interjeter appel au tribunal toute personne :

a) qui s'est vu refuser la communication totale ou partielle d'un document demandé en vertu du paragraphe 8(1);

b) qui est un tiers à qui a été remis l'avis prévu à l'article 33 au sujet de la décision du responsable d'un organisme public de donner communication d'un document.

Appeal only if complaint has been made
67(2) An appeal may be made under subsection (1) only if the person has made a complaint to the Ombudsman about the decision and the Ombudsman has provided a report under section 66.

Appeal within 30 days
67(3) An appeal may be made by filing an application with the court within 30 days after the person receives the Ombudsman's report under subsection 66(2) or a notice under subsection 66(5), or within such longer period as the court may allow in special circumstances.

Head to be named as respondent
67(4) The application must name the head of the public body involved in the complaint as the respondent.

Appeal served on head and others
67(5) The person appealing shall, within 15 days of filing the application, serve a copy of it on

(a) the head of the public body;

(b) the Ombudsman; and

(c) in the case of an appeal by a third party notified under section 33 of a decision to give access to a record, on the person requesting access.

Appeal by the Ombudsman
68(1) The Ombudsman may appeal a decision described in subsection 67(1) to the court within the time limit set by subsection 67(3), if the Ombudsman has obtained the consent of the person who has the right of appeal.

Ombudsman may intervene
68(2) The Ombudsman has a right to intervene as a party to an appeal under section 67.

Conditions for appeal or intervention
68(3) The Ombudsman may appeal a decision or intervene as a party to an appeal only if the Ombudsman is of the opinion that the decision raises a significant issue of statutory interpretation or that an appeal is otherwise clearly in the public interest.

Condition
67(2) L'appel ne peut être interjeté que si la personne a déposé une plainte auprès de l'ombudsman au sujet de la décision et que si celui-ci a remis un rapport en application de l'article 66.

Délai d'appel
67(3) L'appel peut être interjeté par dépôt d'une requête auprès du tribunal dans les 30 jours suivant la réception du rapport de l'ombudsman en application du paragraphe 66(2) ou de l'avis prévu au paragraphe 66(5) ou dans le délai supplémentaire qu'accorde le tribunal dans des circonstances exceptionnelles.

Intimé
67(4) Le responsable de l'organisme public concerné par la plainte est nommé à titre d'intimé dans la requête.

Signification de l'appel
67(5) Dans les 15 jours suivant le dépôt de la requête, l'appelant en signifie une copie :

a) au responsable de l'organisme public;

b) à l'ombudsman;

c) dans le cas d'un appel interjeté par un tiers à qui a été remis l'avis prévu à l'article 33 au sujet de la décision de donner communication d'un document, à la personne qui demande communication du document.

Appel interjeté par l'ombudsman
68(1) L'ombudsman peut interjeter appel devant le tribunal d'une décision que vise le paragraphe 67(1) dans le délai prévu au paragraphe 67(3) avec le consentement de la personne qui a le droit d'interjeter appel.

Intervention de l'ombudsman
68(2) L'ombudsman a le droit d'intervenir à titre de partie à un appel interjeté en vertu de l'article 67.

Conditions
68(3) L'ombudsman ne peut interjeter appel ou intervenir à titre de partie à un appel que s'il est d'avis que la décision soulève une question importante d'interprétation légale ou que l'appel sert nettement l'intérêt public.

Appeal served on head and others

68(4) The Ombudsman shall, within 15 days after filing an application for appeal, serve a copy of it on

(a) the head of the public body; and

(b) the person requesting access to the record if he or she is not the person who gave consent under subsection (1).

Appeal as a new matter

69 The court shall consider an appeal under section 67 or 68 as a new matter and may hear evidence by affidavit.

Burden of proof

70(1) If an appeal under section 67 or 68 relates to a decision to refuse an applicant access to all or part of a record, it is up to the head of the public body to prove that the applicant has no right of access to the record or part of the record.

Burden of proof: personal information

70(2) Despite subsection (1), if the appeal relates to a decision to give or refuse to give access to a record or part of a record containing personal information about a third party, it is up to the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's privacy.

Burden of proof: non-personal information

70(3) If the appeal relates to a decision to give access to all or part of a record containing information that is not personal information about a third party, it is up to the third party to prove that the applicant has no right of access to the record or part of the record.

Court may order production of records

71 Despite any other enactment or any privilege of the law of evidence, for the purpose of an appeal under section 67 or 68 the court may order production of any record in the custody or under the control of a public body for examination by the court.

Signification de l'appel

68(4) Dans les 15 jours suivant le dépôt de la requête, l'ombudsman en signifie une copie :

a) au responsable de l'organisme public;

b) à la personne qui demande communication du document s'il ne s'agit pas de la personne qui a donné le consentement prévu au paragraphe (1).

Nouvelle affaire

69 Le tribunal traite l'appel visé par l'article 67 ou 68 comme une nouvelle affaire et peut entendre la preuve par affidavit.

Charge de la preuve

70(1) Si l'appel visé par l'article 67 ou 68 porte sur une décision de refuser à l'auteur d'une demande la communication totale ou partielle d'un document, il incombe au responsable de l'organisme public d'établir que l'auteur de la demande n'a aucun droit d'accès au document ou à la partie en question.

Charge de la preuve – renseignements personnels

70(2) Malgré le paragraphe (1), si l'appel porte sur une décision de donner ou de refuser de donner communication totale ou partielle d'un document contenant des renseignements personnels au sujet d'un tiers, il incombe à l'auteur de la demande d'établir que la communication des renseignements ne constituerait pas une atteinte injustifiée à la vie privée du tiers.

Charge de la preuve – renseignements non personnels

70(3) Si l'appel porte sur une décision de donner communication totale ou partielle d'un document contenant des renseignements qui ne sont pas des renseignements personnels au sujet d'un tiers, il incombe au tiers d'établir que l'auteur de la demande n'a aucun droit d'accès au document ou à la partie en question.

Production de documents

71 Malgré tout autre texte et toute immunité reconnue par le droit de la preuve, aux fins de l'audition de l'appel, le tribunal peut exiger la production pour examen de tout document qui relève d'un organisme public.

Court to take precautions against disclosing

72 On an appeal under section 67 or 68, the court shall take every reasonable precaution, including receiving representations *ex parte*, conducting hearings in private and examining records in private, to avoid disclosure

(a) of any information the head of a public body is authorized or required to refuse to disclose under Part 2; or

(b) as to whether information exists, if the head of a public body is authorized to refuse to confirm or deny that the information exists under subsection 12(2).

Powers of court on appeal

73(1) On hearing an appeal under section 67 or 68, the court may,

(a) if it determines that the head of the public body is authorized or required to refuse access to a record under Part 2, dismiss the appeal; or

(b) if it determines that the head is not authorized or required to refuse access to all or part of a record under Part 2,

(i) order the head of the public body to give the applicant access to all or part of the record, and

(ii) make any other order that the court considers appropriate.

Order of court where record contains excepted information

73(2) If the court finds that a record or part of a record falls within an exception to disclosure under Part 2, the court shall not order the head to give the applicant access to that record or part of it, regardless of whether the exception requires or merely authorizes the head to refuse access.

No further appeal

74 A decision of the court under section 73 is final and binding and there is no appeal from it.

Précautions à prendre contre la divulgation

72 Le tribunal prend toutes les précautions possibles, notamment par l'audition d'arguments en l'absence d'autres parties et par la tenue d'audiences et l'examen de documents à huis clos, pour éviter que ne soient divulgués :

a) des renseignements que le responsable d'un organisme public peut ou doit refuser de communiquer sous le régime de la partie 2;

b) le fait qu'existent ou non des renseignements, si le responsable d'un organisme public est autorisé à refuser de confirmer ou de nier leur existence en vertu du paragraphe 12(2).

Pouvoirs du tribunal

73(1) Le tribunal peut :

a) s'il conclut que le responsable d'un organisme public peut ou doit refuser la communication d'un document en vertu de la partie 2, rejeter l'appel;

b) s'il conclut que le responsable d'un organisme public n'est ni autorisé à refuser la communication d'un document en vertu de la partie 2 ni tenu de le faire :

(i) ordonner au responsable de donner à l'auteur de la demande communication totale ou partielle du document,

(ii) rendre toute autre ordonnance qu'il estime indiquée.

Document faisant l'objet d'une exception

73(2) Le tribunal, s'il conclut que la totalité ou une partie d'un document fait l'objet d'une exception visée par la partie 2, ne peut ordonner au responsable de donner à l'auteur de la demande communication totale ou partielle de ce document, même si l'exception prévoit que le responsable a la faculté de refuser la communication.

Décision définitive

74 La décision que vise l'article 73 est définitive, lie les parties et ne peut faire l'objet d'aucun appel.

PART 6

GENERAL PROVISIONS

Directory
75(1) The responsible minister shall

(a) prepare a directory to assist in identifying and locating records in the custody or under the control of public bodies;

(b) make every reasonable effort to ensure that the directory is kept up to date;

(c) ensure that copies of the directory are made available to public bodies; and

(d) ensure that copies of the directory are available to the public through libraries and electronic information networks.

Contents of directory
75(2) The directory must include

(a) a description of the mandates, functions and organization of each public body;

(b) a description of records, including personal information banks, in the custody or under the control of each public body; and

(c) the title, business address and business telephone number of an officer or employee of each public body who may be contacted for information about this Act.

Personal information banks
75(3) The description of a personal information bank required under clause (2)(b) must include the following:

(a) the name of the personal information bank;

(b) a description of the kind of information in the personal information bank and of the categories of individuals whom the information is about;

PARTIE 6

DISPOSITIONS GÉNÉRALES

Répertoire
75(1) Le ministre responsable :

a) prépare un répertoire qui aide à déterminer et à retrouver les documents qui relèvent d'organismes publics;

b) fait tous les efforts possibles pour que le répertoire soit tenu à jour;

c) fait en sorte que des exemplaires du répertoire soient mis à la disposition des organismes publics;

d) fait en sorte que des exemplaires du répertoire soient mis à la disposition du public par l'intermédiaire des bibliothèques et des réseaux d'information électroniques.

Contenu du répertoire
75(2) Le répertoire :

a) fait état du mandat, des fonctions et de l'organisation de chaque organisme public;

b) mentionne les documents, y compris les fichiers de renseignements personnels, qui relèvent de chaque organisme public;

c) les titre, adresse de bureau et numéro de téléphone au travail d'un cadre ou d'un employé de chaque organisme public auprès de qui il est possible de se renseigner au sujet de la présente loi.

Fichiers de renseignements personnels
75(3) La mention que vise l'alinéa (2)b) fait état des éléments suivants :

a) le nom du fichier en question;

b) une indication du genre de renseignements que le fichier contient et des catégories de particuliers que les renseignements concernent;

(c) the authority and purposes for collecting the information;

(d) the purposes for which the information is used or disclosed; and

(e) the categories of persons who use the information or to whom it is disclosed.

Disclosure for non-declared purpose

75(4) If personal information is used or disclosed by a public body for a purpose that is not included in the directory under subsection (1), the head of the public body shall

(a) keep a record of the use or disclosure and either attach or link that record to the personal information; and

(b) notify the responsible minister of the use or disclosure for inclusion in the directory.

Application of this section to local public bodies

75(5) Clauses (3)(d) and (e) and subsection (4) do not apply to local public bodies. However, the head of a local public body shall maintain an up-to-date list of the purposes for which information in a personal information bank in the custody or under the control of the local public body is used or disclosed, and make the list available to the public.

Public bodies to provide information

75(6) The head of a public body shall provide to the responsible minister any information that the minister requires to prepare the directory and ensure that it is kept up to date.

Records available without an application

76(1) The head of a public body may specify records or categories of records that are in the custody or under the control of the public body and that are available to the public without an application for access under this Act.

Fee

76(2) The head of a public body may require a person who asks for a copy of a record available under subsection (1) to pay a fee to the public body, unless such a record can otherwise be accessed without a fee.

c) la disposition permettant la collecte des renseignements personnels et les fins auxquelles est faite cette collecte;

d) les fins auxquelles les renseignements sont utilisés ou communiqués;

e) les catégories de personnes qui utilisent ou auxquelles sont communiqués les renseignements.

Communication relative aux fins non déclarées

75(4) Le responsable d'un organisme public qui utilise ou communique des renseignements personnels à des fins non mentionnées dans le répertoire préparé en application du paragraphe (1) :

a) d'une part, conserve un document faisant état de l'utilisation ou de la communication et l'annexe ou l'incorpore aux renseignements personnels;

b) d'autre part, avise le ministre responsable de l'utilisation ou de la communication pour qu'elle figure au répertoire.

Application aux organismes publics locaux

75(5) Les alinéas (3)d) et e) et le paragraphe (4) ne s'appliquent pas aux organismes publics locaux; toutefois, le responsable d'un tel organisme tient une liste à jour des fins auxquelles sont utilisés ou communiqués les renseignements qui figurent dans un fichier de renseignements personnels relevant de l'organisme et met cette liste à la disposition du public.

Fourniture de renseignements

75(6) Le responsable d'un organisme public fournit au ministre responsable les renseignements que celui-ci exige afin de préparer le répertoire et de veiller à ce qu'il soit tenu à jour.

Demande non nécessaire

76(1) Le responsable d'un organisme public peut indiquer les documents ou les catégories de documents qui relèvent de l'organisme et qui sont mis à la disposition du public sans qu'il soit nécessaire de présenter une demande de communication sous le régime de la présente loi.

Droits

76(2) Le responsable d'un organisme public peut exiger que la personne qui demande une copie d'un document mis à la disposition du public en vertu du paragraphe (1) verse à l'organisme public un droit, à moins que le document ne puisse être mis à sa disposition gratuitement.

Privacy Assessment Review Committee

77 In accordance with the regulations, the responsible minister shall establish a Privacy Assessment Review Committee for the purposes of sections 46 and 47.

Giving notice under this Act

78 When this Act requires a notice or document to be given to a person, it is to be given

(a) by sending it to that person by prepaid mail to the person's last known address;

(b) by personal service;

(c) by substitutional service if so authorized by the Ombudsman; or

(d) by electronic transmission or telephone transmission of a facsimile of a copy of the notice or document.

Exercising rights of another person

79 Any right or power conferred on an individual by this Act may be exercised

(a) by any person with written authorization from the individual to act on the individual's behalf;

(b) by a committee appointed for the individual under *The Mental Health Act* or a substitute decision maker appointed for the individual under *The Vulnerable Persons Living with a Mental Disability Act*, if the exercise of the right or power relates to the powers and duties of the committee or substitute decision maker;

(c) by an attorney acting under a power of attorney granted by the individual, if the exercise of the right or power relates to the powers and duties conferred by the power of attorney;

(d) by the parent or guardian of a minor when, in the opinion of the head of the public body concerned, the exercise of the right or power by the parent or guardian would not constitute an unreasonable invasion of the minor's privacy; or

(e) if the individual is deceased, by the individual's personal representative if the exercise of the right or power relates to the administration of the individual's estate.

Comité d'évaluation

77 Pour l'application des articles 46 et 47, le ministre responsable constitue un comité d'évaluation en conformité avec les règlements.

Remise d'avis

78 La remise d'un avis ou d'un document destiné à une personne sous le régime de la présente loi se fait :

a) par envoi par courrier affranchi à la dernière adresse connue de cette personne;

b) par signification en mains propres;

c) par signification indirecte si l'ombudsman le permet;

d) par transmission électronique ou télécopie.

Exercice de droits par autrui

79 Les droits et les pouvoirs conférés à un particulier par la présente loi peuvent être exercés :

a) par toute personne que le particulier autorise par écrit à agir en son nom;

b) par le curateur nommé pour le particulier en vertu de la *Loi sur la santé mentale* ou le subrogé nommé pour lui en vertu de la *Loi sur les personnes vulnérables ayant une déficience mentale*, si l'exercice des droits ou des pouvoirs a trait à ses attributions;

c) par le procureur agissant dans le cadre d'une procuration accordée par le particulier, si l'exercice des droits ou des pouvoirs a trait aux attributions conférées par la procuration;

d) par le père, la mère ou le tuteur du particulier dans le cas où celui-ci est mineur, si, de l'avis du responsable de l'organisme public concerné, l'exercice des droits ou des pouvoirs par le père, la mère ou le tuteur ne constitue pas une atteinte injustifiée à la vie privée du mineur;

e) dans le cas où le particulier est décédé, par son représentant personnel si l'exercice des droits ou des pouvoirs a trait à l'administration de sa succession.

Designation of head by local public body
80 A local public body shall, by by-law or resolution, designate a person or group of persons as the head of the local public body for the purposes of this Act.

Delegation by the head of a public body
81 The head of a public body may delegate to any person on the staff of the public body any duty or power of the head under this Act.

Fees
82(1) The head of a public body may require an applicant to pay to the public body fees for making an application, and for search, preparation, copying and delivery services as provided for in the regulations.

Estimate of fees
82(2) If an applicant is required to pay fees under subsection (1) other than an application fee, the head of a public body shall give the applicant an estimate of the total fee before providing the services.

Acceptance of estimate within 30 days
82(3) The applicant has up to 30 days from the day the estimate is given to indicate if it is accepted or to modify the request in order to change the amount of the fees, after which the application is considered abandoned.

Effect of estimate on time limits
82(4) When an estimate is given to an applicant under this section, the time within which the head is required to respond under subsection 11(1) is suspended until the applicant notifies the head that the applicant wishes to proceed with the application.

Waiver of fees
82(5) The head of a public body may waive the payment of all or part of a fee in accordance with the regulations.

Désignation par les organismes publics locaux
80 Chaque organisme public local désigne, par règlement, règlement administratif ou résolution, la ou les personnes qui en sont responsables pour l'application de la présente loi.

Délégation
81 Le responsable d'un organisme public peut déléguer à tout membre du personnel de l'organisme public les attributions que lui confère la présente loi.

Droits
82(1) Le responsable d'un organisme public peut exiger qu'une personne verse à l'organisme les droits fixés par les règlements pour la présentation de sa demande et pour les services de recherche, de préparation, de copie et de livraison.

Estimation des droits
82(2) L'organisme public remet à l'auteur d'une demande qui est tenu, en vertu du paragraphe (1), de payer des droits autres que ceux liés à la présentation de sa demande une estimation des droits totaux avant de fournir les services visés.

Acceptation de l'estimation
82(3) L'auteur de la demande dispose d'un délai de 30 jours à partir de la date de l'estimation pour indiquer s'il accepte celle-ci ou pour modifier sa demande en vue de faire changer le montant des droits, après quoi il est réputé avoir renoncé à sa demande.

Conséquence de l'estimation sur les délais
82(4) Si une estimation est donnée à l'auteur de la demande, le délai à l'intérieur duquel le responsable est tenu de répondre en application du paragraphe 11(1) est suspendu jusqu'à ce que l'auteur de la demande l'avise qu'il désire poursuivre celle-ci.

Renonciation aux droits
82(5) Le responsable d'un organisme public peut renoncer au paiement de tout ou partie des droits en conformité avec les règlements.

Fee not to exceed actual cost

82(6) The search, preparation, copying and delivery fees referred to in subsection (1) must not exceed the actual costs of the services.

Annual report of responsible minister

83(1) The responsible minister shall prepare an annual report and lay a copy of it before the Legislative Assembly if it is in session and, if it is not, within 15 days after the beginning of the next session.

Contents of report

83(2) The report under subsection (1) shall include information as to

(a) the number of requests for access that have been made, granted or denied;

(b) the specific provisions of this Act upon which refusals of access have been based;

(c) the number of applications to correct personal information that have been made;

(d) the requests and proposals approved by the head of each public body under sections 46 and 47; and

(e) the fees charged for access to records.

Protection from liability

84 No action lies and no proceeding may be brought against the Government of Manitoba, a public body, the head of a public body, an elected official of a local public body or any person acting for or under the direction of the head of a public body for damages resulting from

(a) the disclosure of or failure to disclose, in good faith, all or part of a record or information under this Act or any consequences of that disclosure or failure to disclose; or

Coût réel

82(6) Les frais de recherche, de préparation, de copie et de livraison visés par le paragraphe (1) ne peuvent excéder le coût réel des services.

Rapport annuel du ministre responsable

83(1) Le ministre responsable établit un rapport annuel qu'il dépose devant l'Assemblée législative immédiatement ou, si elle ne siège pas, dans les 15 premiers jours de séance ultérieurs.

Contenu du rapport

83(2) Le rapport contient des renseignements quant :

a) au nombre de demandes de communication qui ont été présentées, acceptées ou refusées;

b) aux dispositions précises de la présente loi sur lesquelles se sont fondés les refus de communication;

c) au nombre de demandes de correction de renseignements personnels qui ont été présentées;

d) aux demandes et aux projets qu'a approuvés le responsable de chaque organisme public sous le régime des articles 46 et 47;

e) aux droits exigés pour la communication de documents.

Immunité

84 Le gouvernement du Manitoba, les organismes publics, les responsables d'organismes publics, les représentants élus d'organismes publics locaux et les personnes agissant pour les responsables d'organismes publics ou sous leur autorité bénéficient de l'immunité pour les dommages résultant :

a) de la communication ou du refus de communication totale ou partielle de documents ou de renseignements, de bonne foi, dans le cadre de la présente loi ainsi que des conséquences qui en découlent;

(b) the failure to give a notice required by this Act if reasonable care is taken to give the required notice.

Offences
85(1) Any person who wilfully

(a) discloses personal information in contravention of Part 3 of this Act;

(b) makes a false statement to, or misleads or attempts to mislead, the Ombudsman or another person in performing duties or exercising powers under this Act;

(c) obstructs the Ombudsman or another person in performing duties or exercising powers under this Act; or

(d) destroys a record or erases information in a record that is subject to this Act with the intent to evade a request for access to records;

is guilty of an offence and liable on summary conviction to a fine of not more than $50,000.

Prosecution within two years
85(2) A prosecution under this Act may be commenced not later than two years after the commission of the alleged offence.

Defence under other enactments
86(1) No person is guilty of an offence under any other enactment by reason of complying with a request or requirement to produce a record or provide information or evidence to the Ombudsman, or a person acting for or under the direction of the Ombudsman, under this Act.

No adverse employment action
86(2) A public body or a person acting on behalf of a public body shall not take any adverse employment action against an employee because the employee has complied with a request or requirement to produce a record or provide information or evidence to the Ombudsman, or a person acting for or under the direction of the Ombudsman, under this Act.

b) de l'omission de donner les avis exigés par la présente loi dans les cas où ils ont fait preuve de la diligence nécessaire pour les donner.

Infractions
85(1) Commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de 50 000 $ quiconque volontairement :

a) communique des renseignements personnels contrairement à la partie 3 de la présente loi;

b) fait une fausse déclaration à l'ombudsman ou à toute autre personne dans l'exercice des attributions prévues par la présente loi ou trompe ou tente de tromper l'ombudsman ou l'autre personne;

c) entrave l'action de l'ombudsman ou de toute autre personne dans l'exercice des attributions prévues par la présente loi;

d) détruit des documents que vise la présente loi ou efface des renseignements qui s'y trouvent dans l'intention de se soustraire à une demande de communication.

Prescription
85(2) Les poursuites visant une infraction à la présente loi se prescrivent par deux ans à compter de la date à laquelle elle aurait été perpétrée.

Défense
86(1) Nul ne commet une infraction à un autre texte du fait qu'il produit des documents ou fournit des renseignements ou des preuves à l'ombudsman ou à une personne agissant pour lui ou sous son autorité, sous le régime de la présente loi, afin de se plier à une demande ou de remplir une obligation.

Mesures répressives
86(2) Il est interdit aux organismes publics et aux personnes qui agissent pour eux de prendre des mesures répressives liées à l'emploi contre les employés qui produisent des documents ou fournissent des renseignements ou des preuves à l'ombudsman ou à une personne agissant pour lui ou sous son autorité, sous le régime de la présente loi, afin de se plier à une demande ou de remplir une obligation.

Regulations

87 The Lieutenant Governor in Council may make regulations

(a) designating a person or group of persons as the head of a public body for the purpose of clause (d) of the definition "head" in section 1;

(b) designating agencies, boards, commissions, corporations, offices, associations or other bodies as educational bodies, government agencies, health care bodies or local government bodies;

(c) designating public registries for the purpose of the definition "public registry" in section 1;

(d) respecting fees to be paid under this Act and providing for circumstances in which fees may be waived in whole or in part;

(e) respecting forms for the purposes of this Act;

(f) respecting procedures to be followed in making, transferring, and responding to requests under Part 2 of this Act;

(g) for the purpose of clause 40(2)(b), governing policies of public bodies concerning retention periods for personal information and respecting the destruction of personal information;

(h) respecting the giving of consents by individuals under this Act;

(i) respecting written agreements for the purposes of sections 44, 46 and 47;

(j) respecting standards for and requiring administrative, technical and physical safeguards to ensure the security and confidentiality of records and personal information in the custody or under the control of public bodies;

Règlements

87 Le lieutenant-gouverneur en conseil peut, par règlement :

a) désigner une ou des personnes à titre de responsable d'un organisme public pour l'application de l'alinéa d) de la définition de « responsable » à l'article 1;

b) désigner des organismes à titre d'organismes d'éducation, d'organismes gouvernementaux, d'organismes de soins de santé ou d'organismes d'administration locale;

c) désigner des registres publics pour l'application de la définition de « registre public » à l'article 1;

d) prendre des mesures concernant les droits à payer en vertu de la présente loi et prévoir les circonstances dans lesquelles il peut être renoncé en tout ou en partie à leur paiement;

e) prévoir des formules pour l'application de la présente loi;

f) établir les formalités à suivre pour la présentation des demandes visées par la partie 2 de la présente loi, leur transmission et les réponses à y apporter;

g) pour l'application de l'alinéa 40(2)b), régir les directives des organismes publics relativement aux périodes de conservation des renseignements personnels et prendre des mesures concernant la destruction de ces renseignements;

h) prendre des mesures concernant les consentements que doivent donner les particuliers sous le régime de la présente loi;

i) prendre des mesures concernant les accords écrits pour l'application des articles 44, 46 et 47;

j) prendre des mesures concernant les normes applicables aux garanties administratives, techniques et physiques et exiger l'établissement de ces garanties afin que soient assurées la sécurité et la confidentialité des documents et des renseignements personnels relevant d'organismes publics;

(k) respecting the appointment of members of the review committee established under section 77 and governing the duties and functions of the review committee and all related matters;

(l) respecting the kind of information that public bodies must provide to the responsible minister, including information the minister requires for preparing the directory under section 75 or the annual report under section 83;

(m) providing that other enactments of Manitoba, or any provisions of them, prevail despite this Act;

(n) defining any word or expression used in this Act but not defined in this Act;

(o) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.

k) prendre des mesures concernant la nomination des membres du comité de révision constitué en application de l'article 77 et régir les attributions de ce comité ainsi que les questions connexes;

l) prendre des mesures concernant le genre de renseignements que les organismes publics doivent fournir au ministre responsable, y compris les renseignements que le ministre exige pour la préparation du répertoire que vise l'article 75 ou le rapport annuel que vise l'article 83;

m) prévoir que d'autres textes du Manitoba, ou certaines de leur dispositions, l'emportent malgré la présente loi;

n) définir des termes ou des expressions qui sont utilisés dans la présente loi mais qui n'y sont pas définis;

o) prendre toute autre mesure nécessaire ou utile à l'application de la présente loi.

PART 7

CONSEQUENTIAL, REVIEW, REPEAL AND COMING INTO FORCE

CONSEQUENTIAL AMENDMENTS

88 to 97 **NOTE: These sections contained consequential amendments to other Acts, which amendments are now included in those Acts.**

REVIEW

Review of this Act
98 Within five years after section 7 comes into force, the minister shall undertake a comprehensive review of the operation of this Act that involves public representations and shall, within one year after the review is undertaken or within such further time as the Legislative Assembly may allow, submit a report on the review to the Assembly.

REPEAL AND C.C.S.M. REFERENCE

Repeal
99 *The Freedom of Information Act*, S.M. 1985-86, c. 6, is repealed.

C.C.S.M. reference
100 This Act may be cited as *The Freedom of Information and Protection of Privacy Act* and referred to as chapter F175 of the *Continuing Consolidation of the Statutes of Manitoba*.

PARTIE 7

MODIFICATIONS CORRÉLATIVES, RÉVISION, ABROGATION ET ENTRÉE EN VIGUEUR

MODIFICATIONS CORRÉLATIVES

88 à 97 **NOTE : Les modifications corrélatives que contenaient les articles 88 à 97 ont été intégrées aux lois auxquelles elles s'appliquaient.**

RÉVISION

Révision de la présente loi
98 Le ministre procède à une révision complète de la présente loi dans les cinq ans suivant l'entrée en vigueur de l'article 7; à cette occasion, il permet au public de présenter des observations. De plus, il présente à l'Assemblée législative un rapport sur ses travaux dans un délai d'un an suivant leur début ou dans le délai supplémentaire que lui accorde l'Assemblée.

ABROGATION ET *CODIFICATION PERMANENTE*

Abrogation
99 Est abrogée la *Loi sur la liberté d'accès à l'information*, chapitre 6 des *L.M. 1985-86*.

Codification permanente
100 La présente loi peut être citée sous le titre : *Loi sur l'accès à l'information et la protection de la vie privée*. Elle constitue le chapitre F175 de la *Codification permanente des lois du Manitoba*.

COMING INTO FORCE

Coming into force of Act
101(1) Except as provided in subsection (3), this Act comes into force on a day fixed by proclamation.

Coming into force for local public bodies
101(2) The proclamation of clause (d) of the definition "head" in section 1, clause (e) of the definition "public body" in section 1, and sections 4(f), 20(2), 21(2), 22, 46(4), 49(a)(ii), 75(5) and 80, or any portion of them, may relate to all or any of the following categories of local public bodies:

(a) educational bodies;

(b) health care bodies;

(c) local government bodies.

Coming into force for The City of Winnipeg
101(2.1) If a proclamation under subsection (2) relates to local government bodies, the proclamation may be made applicable to The City of Winnipeg at an earlier date than to other local government bodies.

Act continues on page 74.

ENTRÉE EN VIGUEUR

Entrée en vigueur
101(1) Sous réserve du paragraphe (3), la présente loi entre en vigueur à la date fixée par proclamation.

Entrée en vigueur pour les organismes publics locaux
101(2) L'entrée en vigueur de l'alinéa d) de la définition de « responsable » à l'article 1, de l'alinéa e) de la définition de « organisme public » à l'article 1, de l'alinéa 4f), des paragraphes 20(2) et 21(2) de l'article 22, du paragraphe 46(4), du sous-alinéa 49a)(ii), du paragraphe 75(5) et de l'article 80, ou d'une partie de ces dispositions, peut toucher l'ensemble ou certaines des catégories suivantes d'organismes publics locaux :

a) les organismes d'éducation;

b) les organismes de soins de santé;

c) les organismes d'administration locale.

Entrée en vigueur pour la Ville de Winnipeg
101(2.1) La proclamation que vise le paragraphe (2), si elle touche des organismes d'administration locale, peut s'appliquer à la Ville de Winnipeg à une date antérieure à celle prévue pour les autres organismes d'administration locale.

Suite à la page 74.

Coming into force of Division 1 of Parts 2 and 3
101(3) If *The Personal Health Information Act* is not in force on the day this Act is proclaimed, Division 1 of Part 2 and Division 1 of Part 3 do not come into force on the proclamation of this Act but instead come into force on the day *The Personal Health Information Act* comes into force.

S.M. 1998, c. 45, s. 10.

NOTE: S.M. 1997, c. 50, except clause (d) of the definition "head" in section 1, clause (e) of the definition "public body" in section 1, and sections 4(f), 20(2), 21(2), 22, 46(4), 49(a)(ii), 75(5) and 80, was proclaimed in force May 4, 1998.
The provisions enumerated above were proclaimed in force in relation to The City of Winnipeg on August 31, 1998, and in relation to educational bodies, health care bodies, and local government bodies except The City of Winnipeg on April 3, 2000.

Entrée en vigueur de la section 1 des parties 2 et 3
101(3) La section 1 de la partie 2 et la section 1 de la partie 3 entrent en vigueur à la date d'entrée en vigueur de la *Loi sur les renseignements médicaux personnels*, si cette loi n'est pas en vigueur à la date d'entrée en vigueur de la présente loi.

L.M. 1998, c. 45, art. 10.

NOTE : Le chapitre 50 des *L.M. 1997*, sauf l'alinéa d) de la définition de « responsable d'organisme public » à l'article 1, de l'alinéa e) de la définition d'« organisme public » à l'article 1, ainsi que de l'alinéa 4f), des paragraphes 20(2) et 21(2), de l'article 22, du paragraphe 46(4), du sous-alinéa 49a)(ii), du paragraphe 75(5) et de l'article 80, est entré en vigueur par proclamation le 4 mai 1998.
Les dispositions indiquées ci-dessus sont en vigueur depuis le 31 août 1998. Toutefois, si elles s'appliquent aux organismes d'éducation, de soins de santé et d'administration locale, à l'exception de la ville de Winnipeg, elles sont en vigueur depuis le 3 avril 2000.

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du Manitoba

THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT
(C.C.S.M. c. F175)

Access and Privacy Regulation

Regulation 64/98
Registered April 17, 1998

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All persons making use of this consolidation are reminded that it has no legislative sanction. Amendments have been inserted into the base regulation for convenience of reference only. The original regulation should be consulted for purposes of interpreting and applying the law. Only amending regulations which have come into force are consolidated. This regulation consolidates the following amendments: 95/98.

LOI SUR L'ACCÈS À L'INFORMATION ET LA PROTECTION DE LA VIE PRIVÉE
(c. F175 de la C.P.L.M.)

Règlement sur l'accès à l'information et la protection de la vie privée

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Veuillez noter que la présente codification n'a pas été sanctionnée par le législateur. Les modifications ont été apportées au règlement de base dans le seul but d'en faciliter la consultation. Le lecteur est prié de se reporter au règlement original pour toute question d'interprétation ou d'application de la loi. La codification ne contient que les règlements modificatifs qui sont entrés en vigueur. Le présent règlement regroupe les modifications suivantes : 95/98.

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DEFINITIONS

Definitions

1 In this regulation,

"Access and Privacy Directory" means the directory required under section 75 of the Act to assist in identifying and locating records in the custody or under the control of public bodies; (*« Répertoire d'accès à l'information et de protection de la vie privée »*)

"access and privacy officer" means any employee of a public body to whom the head has delegated a duty or power under section 81 of the Act; (« agent d'accès à l'information et de protection de la vie privée »)

DÉFINITIONS

Définitions

1 Les définitions qui suivent s'appliquent au présent règlement.

« agent d'accès à l'information et de protection de la vie privée » Employé d'un organisme public à qui le responsable de l'organisme a délégué des attributions en vertu de l'article 81 de la *Loi*. ("access and privacy officer")

« ***Loi*** » La *Loi sur l'accès à l'information et la protection de la vie privée*. ("Act")

"Act" means *The Freedom of Information and Protection of Privacy Act.* (« *Loi* »)

ACCESS AND PRIVACY COORDINATOR

Appointment of access and privacy coordinator
2 Every public body shall appoint an employee as an access and privacy coordinator who is responsible for receiving applications for access to records and for the day-to-day administration of the Act.

APPLICATIONS

Application for access
3(1) A person requesting access to a record shall complete an application in Form 1 of Schedule A.

3(2) Where practicable, the application must be submitted to the access and privacy coordinator at the location of the public body identified in the *Access and Privacy Directory*.

3(3) An application shall be date stamped on the day it is received.

3(4) If the public body considers that verification of the applicant's identity or that of a third party is necessary in order to respond to the application, the public body may at any time require the applicant to provide suitable identification.

« ***Répertoire d'accès à l'information et de protection de la vie privée*** » Le répertoire qui est requis sous le régime de l'article 75 de la *Loi* afin d'aider à déterminer et à retrouver les documents qui relèvent d'organismes publics. ("*Access and Privacy Directory*")

COORDONNATEUR DE L'ACCÈS À L'INFORMATION ET DE LA PROTECTION DE LA VIE PRIVÉE

Nomination du coordonnateur de l'accès à l'information et de la protection de la vie privée
2 Chaque organisme public nomme un employé à titre de coordonnateur de l'accès à l'information et de la protection de la vie privée, lequel est responsable de la réception des demandes de communication de documents et de l'application quotidienne de la *Loi*.

DEMANDES

Demandes de communication
3(1) Les personnes qui demandent la communication d'un document remplissent une demande selon la formule 1 de l'annexe A.

3(2) Si possible, les demandes sont présentées au coordonnateur de l'accès à l'information et de la protection de la vie privée à l'endroit indiqué dans le *Répertoire d'accès à l'information et de protection de la vie privée.*

3(3) Les demandes sont frappées du timbre-dateur le jour de leur réception.

3(4) L'organisme public peut en tout temps exiger que l'auteur de la demande fournisse des pièces d'identité suffisantes s'il est d'avis qu'il est nécessaire de vérifier son identité ou celle d'un tiers pour donner suite à la demande.

FEES

Search and preparation fee

4(1) An applicant shall pay a search and preparation fee to the public body whenever the public body estimates that search and preparation related to the application will take more than two hours.

4(2) The fee payable for search and preparation is $15.00 for each half-hour in excess of two hours.

4(3) When calculating search and preparation time, a public body shall include time spent in severing any relevant record under subsection 7(2) of the Act, but shall not include time spent

(a) in connection with transferring an application to another public body under section 16 of the Act;

(b) preparing an estimate of fees under section 7;

(c) reviewing any relevant record to determine whether any of the exceptions to disclosure apply, prior to any severing of the record;

(d) copying a record supplied to the applicant; or

(e) preparing an explanation of a record under subsection 14(2) of the Act.

Copying fees

5(1) An applicant who is given a copy of a record shall pay the following copying fees to the public body:

(a) 20 cents for each page for paper copies made by a photocopier or computer printer;

(b) 50 cents for each page for paper copies made from a micro printer;

(c) actual costs for any other method of providing copies.

DROITS

Droits de recherche et de préparation

4(1) L'auteur de la demande paie un droit de recherche et de préparation à l'organisme public lorsque celui-ci juge que la recherche et la préparation liées à la demande prendra plus de deux heures.

4(2) Le droit payable pour la recherche et la préparation est de 15 $ pour chaque demi-heure qui s'ajoute aux deux premières heures.

4(3) Lorsqu'il calcule le temps de recherche et de préparation, l'organisme public tient compte du temps qu'il a fallu pour prélever des renseignements dans les documents pertinents en vertu du paragraphe 7(2) de la *Loi*. Est exclu toutefois du calcul le temps consacré :

a) à la transmission d'une demande à un autre organisme public en vertu de l'article 16 de la *Loi*;

b) à l'estimation des droits en vertu de l'article 7;

c) à l'examen des documents pertinents afin que l'organisme détermine, avant le prélèvement de renseignements dans ceux-ci, si certaines exceptions à la communication s'appliquent ou non;

d) à la reproduction d'un document fourni à l'auteur de la demande;

e) à la fourniture de renseignements supplémentaires relatifs à un document en vertu du paragraphe 14(2) de la *Loi*.

Droits de copie

5(1) L'auteur de la demande qui reçoit copie d'un document paie les droits de copie suivants à l'organisme public :

a) 20 cents la page pour les copies faites à l'aide d'une machine à photocopier ou d'une imprimante d'ordinateur;

b) 50 cents la page pour les copies produites à l'aide d'une imprimante pour microfilm;

c) les frais réels liés à tout autre mode de fourniture de copies.

5(2) Despite subsection (1), an applicant requesting copies of his or her own personal information is not required to pay a copying fee if the total copying fee payable is less than $10.00.

Computer programming and data processing fees

6 When a public body needs to use computer programming or incurs data processing costs in responding to an application, the applicant shall pay to the public body

(a) $10.00 for each fifteen minutes of internal programming or data processing; or

(b) the actual cost of external programming or data processing incurred by the public body.

Matters for which no fee is payable

7 No fee is payable by an applicant for

(a) making an application for access to a record;

(b) using the *Access and Privacy Directory*, any file list, file plan or similar record used by a public body to identify, locate or describe records, unless the applicant requires a copy, in which case 20 cents is payable for each page; or

(c) regular mailing costs, other than special courier delivery which shall be charged to the applicant at actual cost.

5(2) Malgré le paragraphe (1), la personne qui fait une demande de communication de renseignements la concernant n'est pas tenue de payer un droit de copie si le total de ce droit est inférieur à 10 $.

Droits relatifs à la programmation informatique et au traitement de données

6 Lorsque, pour faire suite à une demande, l'organisme public doit utiliser une programmation informatique ou engage des frais de traitement de données, l'auteur de la demande paie à l'organisme :

a) 10 $ pour chaque période de quinze minutes de programmation ou de traitement de données effectué au sein de l'organisme;

b) le coût réel de la programmation ou du traitement de données effectué par un autre organisme.

Non-paiement des droits

7 L'auteur de la demande ne paie aucun droit :

a) lorsqu'il présente une demande de communication d'un document;

b) lorsqu'il utilise le *Répertoire d'accès à l'information et de protection de la vie privée*, une liste de fichiers, une description de fichiers ou des documents semblables à ceux qu'utilisent les organismes publics pour déterminer, retrouver ou désigner des documents; un droit de 20 cents par page est toutefois exigible lorsqu'il demande une copie;

c) pour les frais de courrier ordinaire, à l'exception des frais de courrier par exprès dont il doit payer le coût réel.

ESTIMATE OF FEES

Estimate of fees

8(1) In accordance with subsection 82(2) of the Act, a public body shall give an applicant an estimate of fees in Form 2 of Schedule A when it reasonably considers that, in responding to the request,

(a) search and preparation is likely to take longer than two hours; or

(b) computer programming or data processing fees will be incurred.

8(2) After receiving an estimate of fees, an applicant who still wishes to proceed with the application shall sign and return a copy of Form 2 of Schedule A to the public body along with payment of the estimated fees.

8(3) The estimate of fees is binding on the public body, and if the actual cost of search and preparation or computer programming or data processing is less than the estimate, the public body shall refund the difference to the applicant.

8(4) In addition, a public body shall refund the amount of estimated fees paid by an applicant if access to every record the applicant has requested is refused.

WAIVER OF FEES

Waiver of fees

9(1) At the applicant's request, the head of a public body may waive all or part of the fees payable under this regulation if the head is satisfied that

(a) payment would impose an unreasonable financial hardship on the applicant;

ESTIMATION DES DROITS

Estimation des droits

8(1) Les organismes publics, conformément au paragraphe 82(2) de la *Loi*, remettent aux auteurs des demandes une estimation des droits rédigée selon la formule 2 de l'annexe A lorsqu'ils jugent que, pour donner suite aux demandes :

a) soit la recherche et la préparation prendront vraisemblablement plus de deux heures;

b) soit des frais de programmation ou de traitement de données seront engagés.

8(2) Après avoir reçu l'estimation des droits, l'auteur de la demande signe et renvoie à l'organisme public une copie de la formule 2 de l'annexe A accompagnée du paiement des droits estimatifs s'il désire toujours recevoir communication de documents.

8(3) L'estimation des droits lie l'organisme public. De plus, si le coût réel de recherche et de préparation, de programmation informatique ou de traitement de données est inférieur à l'estimation, l'organisme rembourse la différence à l'auteur de la demande.

8(4) L'organisme public rembourse à l'auteur de la demande le montant des droits estimatifs payés si sa demande est refusée en entier.

RENONCIATION AUX DROITS

Renonciation aux droits

9(1) Le responsable d'un organisme public peut renoncer à la totalité ou à une partie des droits que l'auteur de la demande doit payer sous le régime du présent règlement si celui-ci lui en fait la demande et s'il est convaincu :

a) que le paiement des droits causerait à l'auteur de la demande des difficultés financières déraisonnables;

(b) the request for access relates to the applicant's own personal information and waiving the fees would be reasonable and fair in the circumstances; or

(c) the record relates to a matter of public interest concerning public health or safety or the environment.

9(2) Either when access is granted or before it is granted, the head of the public body shall inform the applicant in writing as to the head's decision about waiving the fees.

9(3) In this section, "head", in relation to a public body that is a department, means the deputy minister of the department or person holding an equivalent office.

FORM OF COMPLAINT

Form of complaint
10 A complaint to the Ombudsman under Part 5 of the Act shall be in Form 3 of *Schedule A*.

DESIGNATION OF GOVERNMENT AGENCIES AND PUBLIC REGISTRIES

Designation of government agencies
11 The bodies set out in Schedule B are designated as government agencies for the purposes of the Act.

Designation of public registries
12 The registries of information set out in Schedule C are designated as public registries for the purposes of the Act.

b) que la demande de communication se rapporte aux renseignements personnels de l'auteur de la demande et que la renonciation aux droits serait raisonnable et juste dans les circonstances;

c) que le document se rapporte à une question d'intérêt public touchant la santé publique, la sécurité ou l'environnement.

9(2) Le responsable de l'organisme public informe par écrit l'auteur de la demande de la décision qu'il a prise concernant la renonciation aux droits, lorsque la demande de communication de documents est accordée ou avant qu'elle ne le soit.

9(3) Dans le présent article, le responsable d'un organisme public qui est un ministère désigne le sous-ministre du ministère ou une personnne occupant un poste équivalent.

FORME DES PLAINTES

Forme des plaintes
10 Les plaintes déposées auprès de l'ombudsman sous le régime de la partie 5 de la *Loi* sont rédigées selon la formule 3 de l'annexe A.

DÉSIGNATION DES ORGANISMES GOUVERNEMENTAUX ET DES REGISTRES PUBLICS

Désignation des organismes gouvernementaux
11 Les organismes indiqués à l'annexe B sont désignés à titre d'organismes gouvernementaux pour l'application de la *Loi*.

Désignation des registres publics
12 Les registres de renseignements indiqués à l'annexe C sont désignés à titre de registres publics pour l'application de la *Loi*.

REVIEW COMMITTEE

Privacy Assessment Review Committee
13(1) The review committee established under section 77 of the Act shall consist of the Provincial Archivist as well as an appointee of the deputy minister of each of the following departments:

(a) the Department of Consumer and Corporate Affairs;

(b) the Department of Education and Training;

(c) the Department of Family Services;

(d) the Department of Health;

(e) the Department of Highways and Transportation;

(f) the Department of Industry, Trade and Tourism;

(g) the Department of Justice.

13(2) The Provincial Archivist is the chairperson of the review committee.

13(3) Five members of the committee are a quorum.

Repeal
14 The *Access to Records Regulation*, Manitoba Regulation 296/88, is repealed.

Coming into force
15 This regulation comes into force on May 4, 1998.

COMITÉ D'ÉVALUATION

Comité d'évaluation
13(1) Le Comité d'évaluation constitué sous le régime de l'article 77 de la *Loi* est composé de l'archiviste provincial ainsi que du délégué du sous-ministre des ministères suivants :

a) le ministère de la Consommation et des Corporations;

b) le ministère de l'Éducation et de la Formation professionnelle;

c) le ministère des Services à la famille;

d) le ministère de la Santé;

e) le ministère de la Voirie et du Transport;

f) le ministère de l'Industrie, du Commerce et du Tourisme;

g) le ministère de la Justice.

13(2) L'archiviste provincial est le président du Comité d'évaluation.

13(3) Le quorum est constitué par cinq membres du Comité.

Abrogation
14 Le *Règlement sur la communication de documents*, *R.M.* 296/88, est abrogé.

Entrée en vigueur
15 Le présent règlement entre en vigueur le 4 mai 1998.

SCHEDULE A
Form 1
(Subsection 3[1])
APPLICATION FOR ACCESS

Please see reverse for instructions

Applicant

Surname: ____________________ **First Name:** ____________________

Address: ____________________

____

____________________ Postal Code: ____________________

Daytime Telephone Number: ____________________ Fax Number: ____________________

What Information Are You Requesting? Please check one ✓

My own personal information ____

General information ____

Personal information for another person (*Attach proof of authority*) ____

I wish to obtain access to the following records:

Applicant's Signature: ____________________

For Public Body Use Only

Date Received: ____________________ **Number:** ____________________

INSTRUCTIONS

(APPLICATION FOR ACCESS FORM)

Please

- Make only one request on each application form.

- Describe the records or information to which you want access in as much detail as possible.

- Send or take this form to the Access and Privacy Coordinator of the public body most likely to have the records you wish access to. Addresses of Coordinators are provided in the ***Access and Privacy Directory*** found in most public body offices and public libraries, or on the **Internet** at www.gov.mb.ca.

  The addresses may also be obtained by calling the

  - Government Records Office (945-3738 or toll free in Manitoba 1-800-617-3588)
    or
  - Citizens' Inquiry Service (945-3744 or toll free in Manitoba 1-800-282-8060)

- Keep a copy for your records.

- Note that you may be asked to pay certain costs as prescribed by Regulation, before gaining access to records.

- Note that if the public body does not respond within 30 days of receipt of this application, or if the public body extends this 30-day time period under subsection 15(2) of the Act, you may file a complaint with the Office of the Ombudsman.

Personal information collected on this form is protected by *The Freedom of Information and Protection of Privacy Act* and will be used only to respond to this request. Inquiries about the use and protection of this personal information should be directed to the Access and Privacy Coordinator of the public body to whom the application is sent.

SCHEDULE A
Form 2
(Subsection 8[1])

ESTIMATE OF COSTS

In accordance with subsection 82(2), you are being advised by this estimate that there is a fee payable for responding to your application for access to records. The estimate is as follows, based on charges authorized under sections 4 and 6 of the *Access and Privacy Regulation*:

APPLICATION NUMBER: ____________________

Search and Preparation Fee:

Time in excess of two hours .... __________ hours
Estimated cost (at $15.00 each half hour) .... $__________

Computer Programming and Data Processing Fee:

- Internal work
  Time estimate .... __________ minutes
  Estimated cost (at $10.00 each 15 minutes) .... $__________
- External Work
  Estimated cost (at actual cost) .... $__________

Total of estimated costs ... $__________

Please note: There is generally an additional charge for obtaining copies.

A refund will be made if access to every record requested is refused, or if the actual cost is less than this estimate.

Signed: ____
(Access and Privacy Officer or Coordinator)

Name of Public Body: ____

Address: ____

Date: ____________________

Please indicate your willingness to proceed by signing below and returning a copy of this form with a cheque payable to ____. Applicants have up to 30 days from the date the estimate is given to indicate if it is accepted or to modify the request in order to change the amount of the fees. After this period, the application would be considered to be abandoned. We shall notify you when the records are ready.

Applicant's Signature: **Date:**

SCHEDULE A
Form 3
(Section 10)

COMPLAINT

TO THE MANITOBA OMBUDSMAN:

I wish to complain under *The Freedom of Information and Protection of Privacy Act* that:

Check (✓)

____ I have not received a reply to my application. It has been ______ days since I applied.

____ I have received notice that an extension beyond 30 days is being sought. I contest the need for this extension.

____ I have been denied access to all or part of the records for which I applied.

____ My request for correction to my personal information as provided for in section 39 has been refused.

____ As a third party, I wish to contest under section 59(2) the public body's decision to give access to records against my wish.

____ I believe my own personal information has been collected (___), or used (___), or disclosed (___) in violation of Part 3, Protection of Privacy.

____ As a relative of a deceased person, I contest the decision of a public body not to disclose my relative's personal information under clause 44(1)(z).

____ Other? Please specify: ____________________

Surname: ____________________ **First Name:** ____________________

Address: ____________________

____

____________________ **Postal Code:** ____________________

Daytime Telephone Number: ____________________ **Fax Number:** ____________________

PLEASE SEND THIS FORM TO:

Manitoba Ombudsman
750 - 500 Portage Avenue
Winnipeg, Manitoba R3C 3X1

For the use of the OFFICE OF THE OMBUDSMAN: *Complaint received on* ____________________ *(Date).*

ANNEXE A
Formule 1
[Paragraphe 3(1)]

DEMANDE DE COMMUNICATION DE DOCUMENTS

Voir les directives au verso

Auteur de la demande

Nom : ______________________ Prénom : ______________________

Adresse : ____

____

______________________ Code postal : ______________________

Numéro de téléphone (jour) : ______________ Numéro de télécopieur : ______________

Quels renseignements demandez-vous? Veuillez cocher à l'endroit approprié ✓

Renseignements personnels à mon sujet ___

Renseignements généraux ___

Renseignements personnels au sujet d'un tiers (joindre une preuve d'autorisation) ___

Je désire obtenir la communication des documents suivants :

Signature de l'auteur de la demande : ______________________

RÉSERVÉ À L'USAGE EXCLUSIF DE L'ORGANISME PUBLIC

Date de réception : ______________________ **Numéro :** ______________________

DIRECTIVES

(FORMULE – DEMANDE DE COMMUNICATION DE RENSEIGNEMENTS)

Remarques :

- Ne faites qu'une seule demande par formule.

- Décrivez de la façon la plus détaillée possible les documents ou les renseignements dont vous voulez obtenir la communication.

- Envoyez ou remettez la présente formule au coordonnateur de l'accès à l'information et de la protection de la vie privée de l'organisme public qui a vraisemblablement les documents dont vous demandez la communication. Les adresses des coordonnateurs sont indiquées dans le ***Répertoire d'accès à l'information et de protection de la vie privée*** que vous pouvez consulter dans la plupart des bureaux des organismes gouvernementaux et dans les bibliothèques publiques. Vous pouvez aussi obtenir ces adresses sur le réseau Internet à l'adresse suivante : www.gov.mb.ca ou en téléphonant :

    - au Bureau des documents du gouvernement, au 945-3738 (numéro sans frais au Manitoba : 1-800-617-3588);

    - au Service de renseignements au public, au 945-3744 (numéro de téléphone sans frais au Manitoba : 1-800-282-8060).

- Gardez une copie pour vos dossiers.

- Vous pouvez avoir à payer certains frais prévus par les règlements avant d'avoir accès aux documents dont vous avez demandé la communication.

- Vous pouvez déposer une plainte auprès du Bureau de l'ombudsman si l'organisme public n'a pas répondu à votre demande dans les 30 jours suivant sa réception ou s'il proroge ce délai en vertu du paragraphe 15(2) de la *Loi*.

**Les renseignements personnels recueillis dans la présente formule
sont protégés par la *Loi sur l'accès à l'information et la protection
de la vie privée* et ne seront utilisés que pour répondre à la présente demande.
Les questions concernant l'utilisation et la protection de
ces renseignements personnels devraient être adressées au coordonnateur
de l'accès à l'information et de la protection de la vie privée
de l'organisme public à qui la demande est envoyée.**

ANNEXE A

Formule 2

[Paragraphe 8(1)]

ESTIMATION DES DROITS

Sachez qu'en conformité avec le paragraphe 82(2), vous devez payer des droits pour votre demande de communication de renseignements. L'estimation des droits, basée sur les frais autorisés par les articles 4 et 6 du *Règlement sur l'accès à l'information et la protection de la vie privée*, est la suivante :

NUMÉRO DE LA DEMANDE : ____________________

Droit de recherche et de préparation :

Période supérieure à deux heures .... ________ heures

Coût estimatif (15 $ pour chaque demi-heure) .... ________ $

Droit relatif à la programmation informatique et au traitement de données :

- Travail au sein de l'organisme
  Estimation du temps de travail .... ________ minutes
  Coût estimatif (10 $ pour chaque quinze minutes) .... ________ $
- Travail effectué par un autre organisme
  Coût estimatif (coût réel) .... ________ $

Total des coûts estimatifs ..... ________ $

Remarque : Vous devez payer habituellement un droit additionnel si vous désirez obtenir des copies.

Vous serez remboursé(e) si la communication de tous les documents que vous avez demandés vous est refusée ou si le coût réel est inférieur à la présente estimation.

Signature : ____

(Agent d'accès à l'information et de protection de la vie privée ou coordonnateur de l'accès à l'information et de la protection de la vie privée)

Nom de l'organisme public : ________________________________

Adresse : ________________________________

Date : ________________________

Si vous désirez toujours recevoir communication des documents, veuillez signer ci-dessous et nous renvoyer une copie de la présente formule accompagnée d'un chèque fait à l'ordre de ____________________. Vous disposez d'un délai de 30 jours à partir de la date de la présente estimation pour indiquer si vous acceptez celle-ci ou pour modifier votre demande en vue de faire changer le montant des droits. Après ce délai, vous serez réputé(e) avoir renoncé à votre demande.

Signature de l'auteur de la demande : **Date :**

ANNEXE A
Formule 3
(Article 10)
PLAINTE

À L'OMBUDSMAN DU MANITOBA :

Je désire déposer une plainte sous le régime de la *Loi sur l'accès à l'information et la protection de la vie privée.*

Veuillez cocher les cases appropriées (✓)

_______ Je n'ai pas reçu de réponse à ma demande. J'ai présenté ma demande il y a _______ jours.

_______ J'ai été avisé(e) de la prorogation du délai de 30 jours. Je conteste la nécessité de proroger ce délai.

_______ L'accès à la totalité ou à une partie des documents dont j'avais demandé la communication m'a été refusé.

_______ La demande que j'ai faite en vertu de l'article 39 en vue de la correction de renseignements personnels me concernant a été refusée.

_______ En tant que tiers, je désire contester en vertu du paragraphe 59(2) la décision de l'organisme public de donner communication de documents contre ma volonté.

_______ Je crois que les renseignements personnels me concernant ont été recueillis (_______), utilisés (_____) ou communiqués (_____) en contravention avec la partie 3 (Protection de la vie privée).

_______ En tant que parent d'un défunt, je conteste la décision de l'organisme public de ne pas me communiquer les renseignements personnels concernant le défunt, contrairement à ce que prévoit l'alinéa 44(1)z).

_______ Autre (précisez) : ____

____

Nom : ______________________________ **Prénom :** ______________________

Adresse : ____

____

______________________________ **Code postal :** ______________________

Numéro de téléphone (jour) : ________________ **Numéro de télécopieur :** ________________

ENVOYEZ LA PRÉSENTE FORMULE À :

Ombudsman du Manitoba
500, avenue Portage, bureau 750
Winnipeg (Manitoba)
R3C 3X1

RÉSERVÉ À L'USAGE DU BUREAU DE L'OMBUDSMAN

Date de réception de la plainte : ______________________________.

SCHEDULE B
(Section 11)

GOVERNMENT AGENCIES

AGRICULTURE
Manitoba Livestock Manure Management Initiative Inc.

CONSUMER AND CORPORATE AFFAIRS
Landlord and Tenant Advisory Committee

EDUCATION AND TRAINING
Advisory Council on Education Finance
Apprenticeship and Trades Qualifications Board and Trades Advisory Committees
Board of Teacher Education and Certification
Certificate Review Committee
Council on Learning Technologies
Collective Agreement Board
Provincial Evaluations Committee

ENVIRONMENT
Manitoba Product Stewardship Corporation
Tire Stewardship Board

EXECUTIVE COUNCIL
Manitoba Round Table on the Environment and the Economy

FAMILY SERVICES
Anishinaabe Child and Family Services -- West
Awasis Agency of Northern Manitoba
Children's Aid Society of Manitoba operating as Child and Family Services of Central Manitoba
Child and Family Services of Western Manitoba
Chiropractic Review Panel
Cree Nation Child and Family Caring Agency
Dakota Ojibway Child and Family Services
Dental Review Committee
Island Lake First Nations Family Services

ANNEXE B
(Article 11)

ORGANISMES GOUVERNEMENTAUX

AGRICULTURE
Manitoba Livestock Manure Management Initiative Inc.

CONSOMMATION ET CORPORATIONS
Comité consultatif des locateurs et locataires

ÉDUCATION ET FORMATION PROFESSIONNELLE
Comité consultatif sur le financement de l'éducation
Commission de l'apprentissage et de la qualification professionnelle/Comités consultatifs des métiers
Comité consultatif sur la formation des enseignants et les brevets d'enseignement
Comité de révision des brevets
Conseil sur les technologies d'apprentissage
Commission des conventions collectives
Comité provincial d'évaluation

ENVIRONNEMENT
Manitoba Product Stewardship Corporation
Commission de gestion des pneus

CONSEIL EXÉCUTIF
Table ronde sur l'environnement et l'économie du Manitoba

SERVICES À LA FAMILLE
Services à l'enfant et à la famille d'Anishinaabe – Ouest
Office d'Awasis du nord du Manitoba
Société d'aide à l'enfant du centre du Manitoba fonctionnant à titre d'Office des services à l'enfant et à la famille du centre du Manitoba
Services à l'enfant et à la famille de l'ouest du Manitoba
Comité d'études des dossiers des soins de chiropratique
Office de soins à l'enfant et à la famille de la nation crie
Services à l'enfant et à la famille de Dakota Ojibway
Comité d'étude des dossiers des soins dentaires
Services à la famille de la première nation d'Island Lake

Jewish Child and Family Services
Manitoba Community Services Council
Southeast Child and Family Services
Taking Charge! Inc.
West Region Child and Family Services
Winnipeg Child and Family Services

FINANCE

Government Information Systems Management Organization (Man.) Inc.
Health Information Services of Manitoba Inc.
Manitoba Games Council
Sport Manitoba
Tax Appeals Commission

HEALTH

Advisory Committee on Aids
Advisory Committee on Continuing Care Program
Appeal Panel for Home Care

HIGHWAYS AND TRANSPORTATION

Taxicab Board

HOUSING

Manitoba Housing Authority

JUSTICE

Community Justice Committees
Community Notification Advisory Committee
Manitoba Crime Prevention Awards Committee
Urban Sports Camp Program Steering Committee

NATURAL RESOURCES

Assiniboine River Management Advisory Board

M.R. 95/98

Jewish Child and Family Services
Manitoba Community Services Council Inc.
Services à l'enfant et à la famille du sud-est
Se prendre en main! Inc.
Services à l'enfant et à la famille de la région de l'ouest
Services à l'enfant et à la famille de Winnipeg

FINANCES

Government Information Systems Management Organization (Man.) Inc.
Health Information Services of Manitoba (HISM) Corporation
Conseil de planification des Jeux du Manitoba
Sport Manitoba
Commission d'appel des évaluations foncières

SANTÉ

Comité consultatif sur le SIDA
Comité consultatif du programme des soins continus
Bureau d'appel pour les soins à domicile

VOIRIE ET TRANSPORT

Commission de réglementation des taxis

LOGEMENT

Bureau du logement du Manitoba

JUSTICE

Comités de justice communautaire
Comité consultatif de notification du public
Comité des prix pour la prévention du crime au Manitoba
Comité de direction du programme de camps de sport en milieu urbain

RESSOURCES NATURELLES

Commission consultative sur l'aménagement de la rivière Assiniboine

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R.M. 95/98

SCHEDULE C
(Section 12)

PUBLIC REGISTRIES

AGRICULTURE
Animal Industry Branch
    Livestock Brand Registry

CONSUMER AND CORPORATE AFFAIRS
Auto Injury Appeal Commission
    Record of Appeals

Companies Office
    Business Names Registry
    Corporations Registry

Cooperative and Credit Union Regulation Branch
    Credit Union and Caisse Populaire Registry
    Cooperative Registry

Insurance Branch
    Insurance Companies Licensing

Manitoba Securities Commission
    The Real Estate Brokers Act Registry
    The Securities Act Registry

Property Registry
    Condominium Registry
    Depository Registry
    Personal Property Registry
    The Real Property Act Registry
    The Registry Act Registry

Vital Statistics Special Operating Agency
    Change of Name Registry
    Marriage Commissioners Registry
    Marriage License Issuers Registry
    Religious Denominations Registry

ANNEXE C
(Article 12)

REGISTRES PUBLICS

AGRICULTURE
Direction des productions animales
    Registre des marques de bovins

CONSOMMATION ET CORPORATIONS
Commission d'appel des accidents de la route
    Dossier des appels

Office des compagnies
    Registre des noms commerciaux
    Registre des corporations

Direction de la réglementation des coopératives et des credit unions
    Registre des caisses populaires et des credit unions
    Registre des coopératives

Direction des assurances
    Registre des licences des compagnies d'assurances

Commission des valeurs mobilières du Manitoba
    Registre exigé en vertu de la *Loi sur les courtiers en immeubles*
    Registre exigé en vertu de la *Loi sur les valeurs mobilières*

Registre des biens
    Registre des condominiums
    Registre des dépôts
    Registre des biens personnels
    Registre exigé en vertu de la *Loi sur les biens réels*
    Registre exigé en vertu de la *Loi sur l'enregistrement foncier*

Organisme de service spécial - Bureau de l'état civil
    Registre des changements de nom
    Registre des commissaires aux mariages
    Registre des administrateurs de licences de mariage
    Registre des confessions religieuses

FAMILY SERVICES

Child and Family Services Division
Day Care Centres Licensing

Community Living Division
Residential Care Facilities Licensing
Register of Appointments of Substitute Decision Makers under *The Vulnerable Persons Living with a Mental Disability Act*

HEALTH

Community and Mental Health Division
Ambulance Services Licensing
Audiometric Technicians Certification
Personal Care Homes Licensing

HIGHWAYS AND TRANSPORTATION

Driver and Vehicle Licensing Division
Driver Licensing
Driving School Instructors Registry
Driving Schools Registry
Vehicle Dealers Licensing
Vehicle Registration
Vehicle Safety Inspectors Registry
Recyclers/Wreckers Licensing

Motor Transport Board
Public Service Vehicle Operators Licensing

Taxicab Board
Taxicab and Limousine Drivers Licensing
Taxicab, Limousine, Handivan, and U-drive Operators Licensing

INDUSTRY, TRADE AND TOURISM

Manitoba Horse Racing Commission
Racing Partnerships, Stables, Colours, Leases and Agents Licensing
Racing Occupations Registry

SERVICES À LA FAMILLE

Division des services à l'enfant et à la famille
Registre des centres de garde de jour pour enfants

Division de la vie en société
Registre des permis des établissements de soins en résidence
Registre des subrogés nommés en conformité avec la *Loi sur les personnes vulnérables ayant une déficience mentale*

SANTÉ

Division des services de santé mentale et communautaire
Registre des permis des services d'ambulance
Registre des brevets des techniciens audiométriques
Registre des licences d'exploitation des foyers de soins personnels

VOIRIE ET TRANSPORT

Division des permis et des immatriculations
Registre des permis de conduire
Registre des moniteurs d'auto-écoles
Registre des auto-écoles
Registre des permis des concessionnaires automobiles
Registre d'immatriculation des véhicules
Registre des inspecteurs de la sécurité des véhicules
Registre des licences des récupérateurs et des ferrailleurs

Commission du transport routier
Registre des permis d'exploitation des véhicules de transport public

Commission de réglementation des taxis
Registre des permis des chauffeurs de taxi et de limousine
Registre des permis d'exploitation des entreprises de transport des handicapés, de transport par taxi et par limousine, et de location de voitures sans chauffeur

INDUSTRIE, COMMERCE ET TOURISME

Commission hippique du Manitoba
Registre des permis d'association, des noms d'écurie, des couleurs, des baux ou des agents autorisés
Registre des professionnels du domaine des courses de chevaux

JUSTICE
Criminal Justice Division
    Canadian Firearms Safety Course Reports
    Firearms Acquisition Records
    Private Investigators, Security Guards Licensing
    Weapons Inventory

LABOUR
Employment Standards Branch
    Child Labour Permits

Mechanical and Engineering Branch
    Gas and Oil-fired Equipment Installers Permits
    Trades Licensing

Workplace Safety and Health Branch
    Blasters Licensing
    Hoistman Certification
    Industrial Audiometric Technician Licensing

LIQUOR CONTROL COMMISSION OF MANITOBA
Licensing
    Licensed Premises Registry

RURAL DEVELOPMENT
Local Government Services
    Manitoba Assessment System

JUSTICE
Division de la justice criminelle
    Rapports du Cours canadien de sécurité dans le maniement des armes à feu
    Documents sur les acquisitions d'armes à feu
    Registre d'accréditation des détectives privés et des gardiens de sécurité
    Registre des armes

TRAVAIL
Direction des normes d'emploi
    Registre des permis de travail pour enfants

Direction mécanique et technique
    Registre des permis d'installateurs d'appareils fonctionnant au gaz ou au mazout
    Registre des licences professionnelles

Direction de la sécurité et de l'hygiène du travail
    Registre des certificats de dynamitage
    Registre d'accréditation des conducteurs de treuil
    Registre des permis des techniciens audiométriques industriels

SOCIÉTÉ DES ALCOOLS DU MANITOBA
Commission des licences
    Registre des établissements titulaires d'une licence

DÉVELOPPEMENT RURAL
Services de développement des administrations locales
    Système informatique d'évaluation foncière du Manitoba

The Queen's Printer
for the Province of Manitoba

L'Imprimeur de la Reine
du Manitoba

CONTENTS

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HOW THE DIRECTORIES OF RECORDS ARE ORGANIZED

The Freedom of Information and Protection of Privacy Act (FIPPA) provides Manitobans and others with the legal right to access records held by local public bodies, subject to certain specified exceptions. It also sets out requirements that public bodies must follow to protect the privacy of personal information in their custody. FIPPA requires the compilation of directories of records to inform the public about the functions of public bodies and the types of records and information commonly held, including major holdings of personal information.

The Directories of Records components of the *Handbook* describe the mandates and functions of various local public bodies, and identify the records that they create and receive. Local public bodies vary in size and complexity, ranging from small rural municipalities to large hospitals and universities. In some cases, local public bodies have undertaken to provide a more detailed description of their recordkeeping systems.

FIPPA is not intended to replace or limit existing procedures for access to information, as long as the information is not of a personal nature. When there are specific access considerations for a local public body, the Directory of Records indentifies the access issues or requirements.

Each Directory includes the following:

- A brief introduction ;
- A general statement about the mandate and responsibilities of the local public body, as well as more detailed information about specific functions or activities;
- Descriptions of the records in the custody or under the control of the local public body, including series identified as personal information banks. The descriptions of general records series provide short explanations of the function and content of the records (except where this is self-evident). Where their office retention period and final disposition are known, this information is included.
- Personal information banks are easily identified by the 👥 icon, which appears before the entry, and are more fully described, as required by FIPPA. For more information about the description of personal information banks, please see the "Useful Terms" section below.

Like other sections of the *Handbook*, these directories are kept up-to-date and can be keyword searched on the FIPPA web site at: www.gov.mb.ca/fippa.

RECORDS NOT UNDER FIPPA

FIPPA applies to all records of Manitoba government departments, agencies and Crown corporations and to local public bodies. It does not apply to:

- records of the Court of Appeal, Court of Queen's Bench and the Provincial Court including records of judges, magistrates and justices of the peace; judicial administration and support records;
- records of the Legislative Assembly and officers of the Legislative Assembly (including the Speaker, Clerk of the Assembly, Provincial Auditor, Manitoba Ombudsman, Children's Advocate, and Chief Electoral Officer);
- records of Members of the Legislative Assembly who are not Ministers;
- personal or constituency records of a Minister or an elected official of a local public body;
- teaching materials or research information of an employee of an educational institution;
- questions used on an examination or test;
- records relating to a prosecution or an inquest under *The Fatality Inquiries Act* when proceedings have not been completed;
- records in the Provincial Archives of Manitoba, or the archives of a local public body, acquired from a person or entity other than a public body;
- records originating from a credit union held by the Credit Union Deposit Guarantee Corporation under *The Credit Union and Caisses Populaires Act*;
- records specified in *The Adoption Act*, *The Child and Family Services Act*, *The Mental Health Act*, *The Personal Health Information Act*, *The Securities Act*, *The Statistics Act*, *The Vital Statistics Act*, *The Workers Compensation Act*, and their respective Regulations and/or records restricted by another enactment of Manitoba; *The Young Offenders Act* (Canada).

USEFUL TERMS

Many terms, which are used in FIPPA, are defined in Section 1 of the Act. Here are some of the most important ones:

ACCESS AND PRIVACY COORDINATOR: the person designated in each public body to receive FIPPA applications and handle the daily administration of FIPPA matters. The Coordinator will tell you whether a formal application for access is necessary and explain the application process. For the address, telephone and fax number of the Access Coordinator in each local public body, see the "Addresses" section of this *Handbook*.

"DISCLOSURE" OF PERSONAL INFORMATION: the release (making known, revealing, exposing, showing, providing, selling or sharing) of personal information to any person or organization outside the collecting public body by any means (for example, by providing copies, verbally, electronically or by any other means). A disclosure of personal information must be authorized under section 44 of FIPPA.

FIPPA is the acronym for *The Freedom of Information and Protection of Privacy Act*of Manitoba.

LOCAL PUBLIC BODIES: public bodies, other than Manitoba government departments and agencies to which FIPPA applies. Includes local government bodies (urban and rural municipalities, conservation and planning districts, Northern Affairs community councils); educational bodies (school divisions and districts, colleges and universities); and health care bodies (regional health authorities who are responsible for hospitals and personal care homes, as well as hospitals not under the jurisdiction of a regional health authority).

PERSONAL HEALTH INFORMATION: recorded information about an identifiable individual that relates to the individual's health or health care history, the provision of health care to the individual and payment for the health care provided. Includes identifying numbers or symbols assigned to an individual, such as the Personal Health Information Number (PHIN) as well as any identifying information about the individual that is collected in the course of the provision of health care. Access to your own personal health information is governed by *The Personal Health Information Act*.

PERSONAL INFORMATION: recorded information about an identifiable individual including name, home address and telephone number, age, family status, ethnicity, income, sexual orientation, any identifying numbers or symbols assigned to an individual, for example, the Social Insurance Number (SIN), etc. (please see full definition in the Act). Information about corporations, businesses or organizations is not personal information.

PERSONAL INFORMATION BANK (PIB): a series of records or an information system that is organized and capable of being retrieved by a personal identifier (an individual's name or identifying number). FIPPA requires that all personal information banks be reported in the directory of records for each public body. Every personal information bank listed in the directory includes the following:

Title: the name of the records series or information system that has been identified as a personal information bank.
Authority for collection: FIPPA requires that the authority for collection be one of the following:
legislation (an enactment of Manitoba or Canada);
necessary for a program or activity;
law enforcement or crime prevention.
Information: the categories of information maintained (including both general and personal information) and the individuals to whom the information pertains.

**** Important note:** under section 75(5) of FIPPA, local public bodies are required to maintain an up-to-date list of the purposes for which the information in an personal information bank is used or disclosed, and make the list available to the public. These uses and disclosures are not included in the *Handbook* except in the case of colleges, which were already subject to FIPPA prior to local public body proclamation.

PUBLIC BODY: a Manitoba Government department, government agency, or a local public body.

RECORD: information in any form, including information that is written, photographed, recorded or stored on any storage medium or by any means. Examples of records include minutes, letters, memoranda, reports, notes, financial transaction records, photographs, audio-visual material and information stored and retrieved electronically. Copies of documents, drafts and other working materials are also records under FIPPA.

RETENTION AND DISPOSITION: how long the records are maintained and whether they are ultimately destroyed or transferred to an archival institution.

"USE" OF PERSONAL INFORMATION: access to and use of personal information by the public body which collected the information, in order to accomplish its objectives. The "use" must be authorized under section 43 of FIPPA.

FORTHCOMING

FORTHCOMING

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ADDRESSES

Regional Health Authorities

Brandon Regional Health Authority
201 – 340 - 9th Street
Brandon MB R7B 6C2
Phone: 1-204-726-6284
Fax: 1-204-726-6950 / 6536

Interlake Regional Health Authority
601 - 3rd Avenue South
Stonewall MB R0C 2Z0
Phone: 467-4742
Fax: 467-4750

North Eastman Health Assoc.
Aberdeen Ave. & Burrows Rd.
Box 339, W.B. Lewis School
Pinawa MB R0E 1L0
Phone: 1-204-753-2012
Fax: 1-204-753-2015

South Eastman Health /Sante Sud-Est
Box 470
La Broquerie MB R0A 0W0
Phone: 1-204-424-5880
Fax: 1-204-424-5888

Burntwood Regional Health Authority
867 Thompson Drive South
Thompson MB R8N 1Z4
Phone: 204-677-5353
Fax: 204-677-5366

Marquette Regional Health Authority
512 - 4th Avenue
Box 9
Shoal Lake MB R0J 1Z0
Phone: 1-204-759-3441
Fax: 1-204-759-3127

Parkland Regional Health Authority
Room 112, 27 - 2nd Avenue S.W.
Dauphin MB R7N 3E5
Phone: 1-204-622-6222
Fax: 1-204-622-6232

South Westman Regional Health Authority
Box 579
Souris MB R0K 2C0
Phone: 1-204-483-5000
Fax: 1-204-483-5005

Churchill Regional Health Authority
Churchill Health Centre
Churchill MB R0B 0E0
Phone: 1-204-675-8318
Fax: 1-204-675-2243

NOR-MAN Regional Health Authority
84 Church Street, Box 130
Flin Flon MB R8A 1M7
Phone: 1-204-687-1300 / 1301
Fax: 1-204-687-6405

Regional Health Authority - Central Manitoba
56 Royal Road North
Portage la Prairie MB R1N 1V1
Phone: 1-204-239-0418
Fax: 1-204-239-0456

Winnipeg Regional Health Authority
1800 – 155 Carlton Street
Winnipeg MB R3C 4Y1
Phone: 1-204-926-7000 / 7021
Fax: 1-204-926-7007

Other Health Care Bodies

Concordia Hospital
1095 Concordia Avenue
Winnipeg MB R2K 3S8
Phone: 661-7144
Fax: 667-1049

Deer Lodge Centre
2109 Portage Avenue
Winnipeg MB R3J 0L3
Phone: 837-1301
Fax: 889-0430

Eden Mental Health Centre
1500 Pembina Avenue
Winkler MB R6W 1T4
Phone: 1-204-325-4325
Fax: 1-204-325-8429

Manitoba Adolescent Treatment Centre
120 Tecumseh Street
Winnipeg MB R3E 2A9
Phone: 477-6391
Fax: 783-8948

McCreary/Alonsa Health Centre
Box 250
McCreary MB R0J 0Y0
Phone: 1-204-835-2482
Fax: 1-204-835-2713

Misericordia General Hospital
99 Cornish Avenue
Winnipeg MB R3C 1A2
Phone: 788-8361
Fax: 783-6052

Rehabilitation Centre for Children
633 Wellington Crescent
Winnipeg MB R3M 0A8
Phone: 452-4311
Fax: 477-5547

Riverview Health Centre
1 Morley Avenue
Winnipeg MB R3L 2P4
Phone: 478-6212
Fax: 452-3246

Rock Lake Health District
Box 130
Crystal City MB R0K 0N0
Phone: 1-204-873-2132
Fax: 1-204-873-2185

St. Boniface General Hospital
409 Tache Avenue
Winnipeg MB R2H 2A6
Phone: 237-2330
Fax: 231-0647

Ste. Rose General Hospital
Box 60
Ste. Rose du Lac MB R0L 1S0
Phone: 1-204-447-2181
Fax: 1-204-447-2250

The Salvation Army Grace General Hospital
300 Booth Drive
Winnipeg MB R3J 3M7
Phone: 837-0143
Fax: 831-0029

Seven Oaks General Hospital
2300 McPhillips Street
Winnipeg MB R2V 3M3
Phone: 632-3327
Fax: 697-2106

Swan River Hospital District No. 1
Box 1450
Swan River MB R0L 1Z0
Phone: 1-204-734-3441
Fax: 1-204-734-9081

Victoria General Hospital
2340 Pembina Highway
Winnipeg MB R3T 2E8
Phone: 477-3376
Fax: 261-0223

Winnipegosis General Hospital
Box 280
Winnipegosis MB R0L 2G0
Phone: 1-204-656-4881
Fax: 1-204-656-4402